

1 IN THE DISTRICT COURT

2 OF CLEVELAND COUNTY

3 STATE OF OKLAHOMA

4 - - - - -x

VIDEOTAPE

5 STATE OF OKLAHOMA ex rel. :

6 W.A. DREW EDMONDSON, :

7 et al., :

8 Plaintiffs, :

9 vs. :

10 R.J. REYNOLDS TOBACCO :

11 COMPANY, et al., :

12 Defendants. :

13 - - - - -x

Civil Action Number
CJ96-1499-L(H)

COPY

14 DEPOSITION OF: THOMAS M. STEINFATT

15 DATE: Friday, October 23, 1998

16 TIME: 9:05 a.m.

17 LOCATION: Law Offices of Hunton & Williams

18 1900 K Street, N.W.

19 Suite 1233

20 Washington, D. C.

21 TAKEN BY: Counsel for Plaintiffs

22 REPORTED BY: CARMEN SMITH

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(INDEX AT REAR OF TRANSCRIPT)

24

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[illegible]

03

P R O C E E D I N G S

09:05

VIDEO OPERATOR: This is the deposition of Dr. Thomas M. Steinfatt, taken on behalf of Plaintiffs in the matter state of Oklahoma, et al. Plaintiffs, versus R.J. Reynolds Tobacco Company, et al., Defendants, Civil Action Number CJ96-1499, for the District Court of Cleveland County, state of Oklahoma.

09:05

This deposition is being taken at Hunton & Williams, 1900 K Street, Northwest, Washington, D.C. The time is approximately 9:05 a.m. The date is October 23, 1998.

09:06

The court reporter is Carmen Smith with the firm of Ace-Federal Reporters, 1120 G Street, Northwest, Washington, D.C. 20005. I am the video operator, Chris Weiskircher, also with Ace-Federal.

Will the reporter swear the witness. Whereupon,

THOMAS M. STEINFATT

was called as a witness and, having first been duly sworn, was examined and testified as follows:

VIDEO OPERATOR: Would counsel please identify themselves and who they represent.

06

MR. NUNLEY: Good morning. I'm Chip Nunley, here for Philip Morris.

A. WILLIAM ROBERTS, JR., & ASSOCIATES

0 '6 1 MS. TYLER: Julia Tyler of the firm of
2 Johnson & Tyler, here in Washington, for Philip
3 Morris.

4 MS. PAGE: Allison Page with Hunton &
09:06 5 Williams for Philip Morris.

6 MR. EVANS: Jerry Evans for the state of
7 Oklahoma.

8 MR. MIKHAIL: Charles Mikhail for the
9 state of Oklahoma.

10 EXAMINATION

11 BY MR. EVANS:

12 Q. Good morning, Mr. Steinfatt. Would you
13 state your full name for the record.

14 A. Yes, Thomas Martin Steinfatt.

09:06 15 Q. And I stated my name as we went around,
16 but let me formally introduce myself. I'm Jerry
17 Evans. I'm from Charleston, South Carolina with the
18 firm of Ness, Motley, one of the law firms
19 representing the state of Oklahoma in this case.

09:07 20 What is your home address, Dr. Steinfatt?

21 A. Home address is [DELETED]

22

23 Q. And I believe that, currently, you are a
24 professor in the school of communication at the

0 '7 25 University of Miami; is that correct?

A. WILLIAM ROBERTS, JR., & ASSOCIATES

07 1 A. That is correct.

2 Q. And also director of speech

3 communication?

4 A. The name has changed now. I am actually

09:07 5 in charge of a slightly larger unit, it's called --

6 I'm director of communication. That was accurate, I

7 think, when it was given, but we just recently

8 changed the name, so director of communication, which

9 encompasses speech communication, organizational

09:07 10 communication, intercultural communication.

11 Q. Tell me about your duties as director of

12 communication. I assume you have duties beyond that

13 of being a teacher and professor.

14 A. Yes, that's correct.

09:08 15 Q. What are the duties as director?

16 A. Well, I'm in charge of scheduling

17 classes. I'm in charge of advising for our

18 undergraduate majors. I'm in charge of -- not

19 totally in charge of hiring, as nobody is at an

09:08 20 institution but I have a great deal to say about who

21 is hired within my own area.

22 Q. Do you also teach?

23 A. Yes, indeed, I also teach.

24 Q. What classes are you currently teaching?

08 25 A. Well, currently I'm teaching a graduate

0' 8 1 course in propaganda and persuasion, and an
2 undergraduate course in communication theory, and an
3 undergraduate course in propaganda involved in the
4 war in Vietnam and the Kennedy assassination.

09:08 5 Q. Your graduate course in propaganda and
6 persuasion, are there any particular topics that
7 you're focusing on in that class?

8 A. Well, we focus really probably a bit
9 more, maybe 55 percent, on persuasion, 45 percent
09:09 10 propaganda.

11 Q. You mentioned the undergraduate class,
12 using examples from the Vietnam War.

13 A. Correct.

14 Q. What subject matter examples of
09:09 15 propaganda do you address in your graduate course?

16 A. In the graduate course?

17 Q. Yes.

18 A. We go into quite a number of different
19 areas. We use a book in propaganda which discusses
09:09 20 the history of American-based propaganda and
21 instances close to propaganda, going back just about
22 from the beginning of -- well, really more like from
23 about the middle 1800s, and so we use quite a number
24 of different examples from that period of time to the
09:09 25 present.

09 1 Q. Is there a particular topic that you're
2 discussing right now, this week?

3 A. Well, discussing an exam coming up next
4 Monday for the first half of the course.

09:10 5 Q. Is there an example of propaganda in
6 American history, a subject matter that you're
7 focusing on right now?

8 A. Not in that particular course, no, no.
9 We're looking more at things like the theory of

09:10 10 reasoned action, social judgment theory, a number of
11 other persuasion theories that all relate to
12 propaganda, and how propaganda works within the
13 individual.

14 Q. So is it correct to characterize it as
09:10 15 more of a theoretical course than focusing on case
16 studies, or --

17 A. It's certainly not a course which is
18 designed to teach someone how to either propagandize
19 or persuade. It's more of a study of what is
09:10 20 persuasion, how does it work, what does the research
21 evidence show in terms of how propaganda and
22 persuasion works.

23 Q. How long have you been at the University
24 of Miami?

09 25 A. I arrived there in the fall of 1987; it

09:00 1 will be 11 years, I guess.

2 Q. What courses have you taught other than
3 those that include in the title propaganda,
4 persuasion?

09:11 5 A. Could you repeat the question?

6 Q. It was a little convoluted. I'm
7 interested in the subject matter of the courses you
8 have taught other than a course that focuses on
9 persuasion and propaganda.

09:11 10 A. Oh, okay. Intercultural communication,
11 small group communication, political communication.
12 I may be forgetting something that -- oh, and
13 statistics and research design.

14 Q. If you think of another one as we --

09:11 15 A. I'll let you know. Give me a moment
16 right now. I think that's it. As I mentioned, the
17 communication theory, I teach that.

18 Q. Before you were at the University of
19 Miami, you worked at Clarkson University; is that
20 correct?

21 A. Yes, I did.

22 Q. And I believe your title was director of
23 communication programs?

24 A. Yes, I think that's correct.

09:02 25 Q. Other than teaching classes, what were

C 12 1 your duties at Clarkson?

2 A. Well, at Clarkson, my duties in fact were
3 not to teach classes. I was director of -- I'm not
4 sure, perhaps it was communication programs. If it
09:12 5 says that on the vitae, that was the title. I
6 remember it as director of communication within the
7 school of management.

8 Principally I was in charge of taking
9 students in management, largely students in the MBA
09:12 10 program but also students on the undergraduate level,
11 and improving their communication to the point that,
12 when they went out and got jobs in corporations,
13 nobody would say this person can't communicate.

14 So that could have meant something
09:12 15 anywhere from writing and speaking all the way
16 through to listening and persuasion and communication
17 within an organization; dealt with a lot of different
18 kinds of areas. But what I did is I taught modules
19 within other courses, rather than teaching classes
09:13 20 directly. Although I did, in fact, teach
21 occasionally there, that was a side part of my
22 duties, it wasn't a specified part.

23 Q. You said one of the things -- one of your
24 goals was making sure that, when a student went out
C 13 25 into the work force, no one would say this person

09:13 1 doesn't know how to communicate?

2 A. That's correct.

3 Q. Did you follow up on your success in that
4 goal?

09:13 5 A. Not directly. We did not do a study in
6 which we went out and actually checked on the
7 communication abilities of people out there, but what
8 we did do, is we did do some fairly strong
9 assessments while the students were still at the
09:13 10 university. That is, while we still had, you know,
11 control in the sense that they were here and we
12 didn't have to go everywhere to find them. We did
13 assessments, we did tests, we did a number of
14 different things to see if the programs were taking.

09:14 15 Q. Let me circle back to your time at the
16 University of Miami. I've asked you about your
17 current classes and your previous classes that didn't
18 deal with propaganda. Now I would like to ask you,
19 prior to this year, can you list for me classes you
09:14 20 have taught that specifically dealt with propaganda?

21 A. Prior to this year? Well, I've taught
22 courses in propaganda and persuasion for -- ever
23 since I got my PhD, and as a matter of fact, I
24 believe I taught one even before that, when I was a
09:14 25 graduate student. So I've been teaching courses in

C 14 1 propaganda and persuasion for probably 30 years.

2 Now, are you asking me to go to other
3 universities? Or I'm not sure exactly what you're
4 asking.

09:14 5 Q. No, I am asking regarding your time at
6 the University of Miami.

7 A. Right, okay.

8 Q. Were those classes prior to this year of
9 a similar nature to the two you mentioned this year,
09:15 10 a graduate course and an undergraduate course?

11 A. Well, they vary. Usually I taught the
12 undergraduate course in persuasion, and this year
13 it's -- it happens to be a graduate course in
14 persuasion. The political communication course,

09:15 15 which is the one that deals with -- this year at
16 least -- deals with Vietnam and really the 1960s era
17 kinds of things, that course I have taught before.

18 When we teach that course, it deals with
19 different issues. So sometimes it might be Vietnam,
09:15 20 sometimes it might be the Warren Commission report as
21 a focus, and spreading out from there. It could be a
22 number of different things.

23 Q. Do you ever talk about tobacco issues in
24 your propaganda classes?

C 15 25 A. We talk about tobacco in -- as used as

09:15 1 one example in the communication theory class, and
2 yes, occasionally do teach it in
3 propaganda/persuasion classes but not usually. It
4 could come up. It usually would come up as a
09:16 5 question of a student rather than as an example that
6 I would use.

7 Q. Are you using it as an example this year
8 in classes?

9 A. In the communication theory class, not in
09:16 10 the persuasion classes. We've mentioned tobacco in
11 there, in the same context that we've mentioned well,
12 what would happen if you were trying to persuade
13 someone who were, you know, were drinking and you
14 didn't want them to drink, what kind of -- which one
09:16 15 of these theories might be most appropriate, in that
16 kind of sense. And someone I believe has said well,
17 would that work with cigarettes, would that work with
18 other kinds of -- you know, other kinds of examples.

19 Q. Thank you. I'll probably return to that
09:16 20 subject area. I would like to ask you about your
21 education. You hold three degrees from Michigan
22 State University?

23 A. That is correct.

24 Q. Undergraduate degree in mathematics;
25 correct?

C 16 1 A. Undergraduate degree in mathematics and
2 statistics, yes.

3 Q. And statistics. And you hold a master's
4 degree in speech and PhD in communication; is that
5 correct?

6 A. The master's degree is in speech and
7 rhetoric, I think it may say speech there, which is
8 fine, and the PhD is in communication.

9 Q. All right. Dr. Steinfatt, I've seen
09:17 10 schools referred to as a school of speech and
11 communication or speech communication, so can you
12 tell me the substantive difference in your degree in
13 speech and rhetoric and your degree in
14 communication? If you could just educate me about
09:17 15 that.

16 A. Certainly. A quick and easy way to
17 understand is that the speech and rhetoric is much
18 more of a humanities approach. The communication is
19 much more of a social science approach. If that does
09:17 20 it for you.

21 MR. NUNLEY: I think that makes it
22 clear.

23 THE WITNESS: If not, I can tell you
24 more.

C 17 25 BY MR. EVANS:

09:18 7 1 Q. Well, I would like you to tell me a
2 little more. Perhaps as a starting point, could you
3 list for me course titles you took in your -- I
4 realize this is a long time ago and I may be testing
5 your memory here.

6 A. It was a while.

7 Q. But if you could list me some course
8 titles in the master's program and then some course
9 titles in the PhD program.

09:18 10 A. All right, certainly. Course titles in
11 the masters program, course called persuasion and
12 propaganda. I remember a course, speech criticism,
13 rhetoric. As a matter of fact, I think I remember
14 ancient rhetoric, modern rhetoric, medieval rhetoric,
09:18 15 quite a number with that title. I'm not sure that I
16 took every one of those. Small group communication.
17 I think I mentioned speech criticism. Statistics
18 class, specifically relating to speech and rhetoric.

19 That's some of them, anyway. There may
09:19 20 be others, I would probably need to look at a
21 transcript in order to know exactly.

22 Now, you wanted also the courses for the
23 doctoral degree?

24 Q. Yes, please.

09:19 25 A. The doctoral degree -- also I'm quite

0 19 1 sure a course in persuasion, which may sound strange
2 in both areas but again, the one, remember, was a
3 humanities degree, the other is a social science
4 degree. So you study sort of the same thing from
09:19 5 very different aspects. Sort of like geologists,
6 chemists and physicists can all study a rock, they
7 look at it in different ways.

8 Courses -- a number of courses in
9 research methodology and statistics. Courses in the
09:19 10 mass media, courses in a number of different areas of
11 it, anything from courses dealing with how print
12 typefaces influence use of white space on a page, all
13 the way through the history of the media, functions
14 of the media. I remember a course in group
09:20 15 communication. I remember specifically a course now
16 in persuasion and propaganda, I'm trying to picture
17 instructors, that makes it easier. A course in
18 nonverbal communication, intercultural
19 communication.

09:20 20 Again, I'm sure there are probably
21 others, but that gives you at least a list.

22 Q. It does give me a good idea, thank you.
23 You've testified in depositions before, have you not?

24 A. Yes, I have.

0 20 25 Q. And can you tell me what those occasions

05 0 1 were?

2 A. I believe the first occasion was in
3 August, if memory serves, of last year, and that was
4 in the case of Texas, Texas Attorney General, and I
09:20 5 believe the most recent one, the second one, was I
6 think in July of this year. I believe that was in
7 the case of Engle down in Florida.

8 Q. Any others?

9 A. No, sir.

09:21 10 Q. Have you ever testified in court before?

11 A. Yes, I have.

12 Q. Can you tell me in what context that took
13 place?

14 A. Divorce trial.

09:21 15 Q. Have you ever testified before any sort
16 of administrative or regulatory board?

17 A. Within the context of a university.

18 Q. And can you tell me about that?

19 A. Well, within the university, you know, we
09:21 20 have committees that have certain powers that they
21 sort of share with administrative officers, and I
22 might very well either be part of such a committee or
23 I might testify in front of such a committee.

24 For example, if a faculty member under my
09 1 25 purview is denied tenure, I might then go in front of

0 21 1 that board and argue that that person should, in
2 fact, have received tenure, something along that
3 line.

4 Q. Have you ever testified before a
09:22 5 legislative body, testified before a legislative
6 body?

7 A. Not in terms of sworn testimony, no..

8 Q. Have you in any other form given --

9 A. I've spoken to a legislature before,
09:22 10 spoken in front of before.

11 Q. What was the subject matter of that?

12 A. The future of the city of Lansing,
13 Michigan.

14 Q. Did the future of the city of Lansing
09:22 15 bode well or poorly?

16 A. I suppose that depends on how you read my
17 speech or how you interpreted it. I believe that
18 Governor Swainson and former Governor Williams at
19 that time, let's say, may not have been particularly
09:22 20 pleased with what I had to say at that point, but I
21 thought it was a very upbeat, cheerful speech.

22 Q. Were you speaking in your role as an
23 academic professional or as a concerned citizen, or
24 both?

0 23 25 A. I had not yet graduated from high school.

09:23 3 1 Q. Well, I commend your civic responsibility
2 at that early age, without even knowing what position
3 you took.

09:23 4 Since you've been in depositions before,
5 you've undoubtedly heard these very few ground rules,
6 but I will repeat because I can already see we may
7 have a tendency to talk on top of one another, so if
8 you will allow me to complete my question, and then I
9 will do my best to allow you to give a complete
09:23 10 answer, and that will make it easier for the court
11 reporter and also for the record.

12 If you don't understand a question I'm
13 asking, by all means, tell me that. If you give me
14 an answer, I will assume that you did understand the
09:24 15 question. And the most important ground rule is if
16 you need a break, please ask for it.

17 When were you first approached about
18 being an expert witness for the tobacco companies?

19 MR. NUNLEY: Objection as to form.

09:24 20 THE WITNESS: I don't believe I've ever
21 been approached about being an expert witness for
22 tobacco companies.

23 BY MR. EVANS:

24 Q. How would you describe your role here
09:24 25 today?

24 1 A. I believe as an expert witness concerning
2 propaganda and persuasion.
3 Q. On behalf of whom?
4 A. On behalf of Shook, Hardy & Bacon.
09:24 5 Q. When were you first approached by Shook,
6 Hardy & Bacon about being an expert witness?
7 A. I believe that would have been late
8 February of 1997.
9 Q. Was that in connection with a particular
09:25 10 lawsuit?
11 A. No, I don't believe, at that point, any
12 lawsuits were mentioned.
13 Q. Then did the person who -- well, I should
14 say who -- what was the name of the person who
09:25 15 approached you from Shook, Hardy & Bacon?
16 A. Allen Purvis.
17 Q. Anyone else?
18 A. Well, not on the first approach, no.
19 Q. Subsequent to that?
09:25 20 A. Subsequent to that, Julia Tyler.
21 Q. What specifically did they ask of you at
22 that time?
23 A. I'm not certain which time now you're
24 referring to.
26 25 Q. When you were first approached by

A. WILLIAM ROBERTS, JR., & ASSOCIATES

05 6 1 Mr. Purvis, I'm sorry.

2 A. Mr. Purvis. All right, then. Could you
3 repeat the question with respect to Mr. Purvis?

4 Q. At the time Mr. Purvis first approached
09:26 5 you about being an expert witness, what specific role
6 did they ask you to undertake?

7 A. I don't believe I was asked to undertake
8 a role at that point. In fact, I'm reasonably
9 certain I was not.

09:26 10 Q. Then what was the nature of that first
11 discussion?

12 A. The nature was if I would be willing to
13 meet with him and talk with him if he came to Miami.

14 Q. Did he indicate about what topic?

09:26 15 A. Yes, he did indicate that it had to do
16 with tobacco lawsuits, but he did not indicate a
17 particular role for me, as I recall, with reference
18 to those lawsuits.

19 Q. Did he mention a subject matter that he
09:27 20 sought your expertise in?

21 A. I'm not certain. I'm not certain. I
22 don't believe so. He might have. I really don't
23 know.

24 Q. At what point did you become aware of the
09 27 25 subject matter of expertise that Shook, Hardy & Bacon

A. WILLIAM ROBERTS, JR., & ASSOCIATES

0 27 1 was interested in?

2 A. At the subsequent meeting with Mr. Purvis
3 and Ms. Tyler.

4 Q. And at that time, how did they describe
09:27 5 the subject matter of expertise that they were
6 seeking your counsel on?

7 A. I believe they described it principally
8 as in the area of propaganda.

9 Q. Since the time you were approached by
09:28 10 Shook, Hardy & Bacon up until the present time, have
11 you discussed your role as an expert with any other
12 persons other than persons from Shook, Hardy &
13 Bacon?

14 MR. NUNLEY: Objection as to form.

09:28 15 THE WITNESS: May I hear the question
16 again, please? I'm sorry.

17 BY MR. EVANS:

18 Q. We've established that you were
19 approached by persons representing Shook, Hardy &
09:28 20 Bacon. I would like to know if there are persons
21 from any other entity or other individuals that
22 you've discussed your role as an expert in this case?

23 A. By "other entities," do we mean other law
24 firms?

0 28 25 Q. I mean other law firms or individuals

A. WILLIAM ROBERTS, JR., & ASSOCIATES

09:28 1 outside of Shook, Hardy & Bacon.

2 A. All right. Jan Johnson of Johnson &
3 Tyler. In addition to that, I sent a note to my dean
4 and to the president of the university, saying that I
09:29 5 was considering doing this, and asking if they had
6 any objection. I have talked about the possibility
7 of doing it, before I agreed to become involved for
8 Shook, Hardy & Bacon, with my wife and with my
9 children, and a number of other people, certainly
09:29 10 know that I'm involved in this kind of work but no
11 discussions outside of the fact that yes, I serve as
12 an expert witness.

13 I've discussed that fact of being an
14 expert witness, nothing substantive beyond that
09:29 15 point, with one professor at the University of Miami,
16 Gonzalo Suruco. I don't believe I've had any
17 substantive discussions with anyone else outside of
18 those people, at least as I recall at the moment.

19 Q. When I first turned to this subject, you
09:30 20 said you did not consider yourself as having been
21 approached by tobacco companies to be an expert, but
22 instead by Shook, Hardy & Bacon; is that a correct
23 characterization of your testimony?

24 A. I believe that's a correct
09:30 25 characterization, yes.

30 1 Q. To your knowledge, is Shook, Hardy &
2 Bacon a Defendant in this lawsuit?

3 A. I'm certainly not privy to all the
4 information about it, but to my knowledge, no, they
09:30 5 are not a Defendant.

6 Q. Are you aware if they represent a tobacco
7 company Defendant in this lawsuit?

8 A. I do believe that they do represent a
9 tobacco company, yes.

09:30 10 Q. Do you know who?

11 A. Actually, I asked once and I continue to
12 forget the answer, and since I just heard Ms. Tyler
13 say she's representing Philip Morris, I suspect it
14 may be Philip Morris, but I'm not certain.

09:31 15 Q. You are being compensated for your time,
16 are you not?

17 A. I am being compensated for my time, yes.

18 Q. And who pays your bills?

19 A. For the time, Shook, Hardy & Bacon.

09:31 20 Q. How much do you charge for your time?

21 A. I charge \$100 an hour.

22 Q. Is that, under all circumstances, you
23 charge \$100 an hour, or are there any division of
24 your charges, depending on your activities?

31 25 A. Well, in working with other groups, other

0 1 1 than Shook, Hardy, I have a varying schedule. With
2 Shook, Hardy, I know the kinds of things they're
3 asking me to do and about how difficult that kind of
4 a task is, so those -- that's a flat rate, \$100 an
09:31 5 hour.

6 Q. So there is no difference in what you
7 would charge for sitting in this deposition as
8 opposed to reading materials or that sort of thing?

9 A. At the moment, there is no difference.

09:32 10 Q. Can you approximate for me how many hours
11 you've spent since your involvement with Shook,
12 Hardy & Bacon on tobacco issues?

13 A. Well, I would say a great number of
14 hours. Do you want some kind of an exact estimate
09:32 15 or --

16 Q. I would like some kind of estimate if you
17 can.

18 A. It's going to take me a moment, and let
19 me think through that.

09:32 20 Well, I would simply calculate it this
21 way. I have been spending somewhere in the
22 neighborhood of 40 to 65, say, hours a month working
23 on it.

24 Now, I'm not certain that that's been
0 33 25 every month, and I would think that that began

33 1 principally somewhere around April, May, somewhere of
2 last year. So if we simply -- let's say it started
3 in April, to give probably a high side estimate, so
4 April to the previous March would be about 12 months,
09:33 5 multiply 12 by the average of 45 -- or 40 to 65
6 hours. And then add a similar amount from there on
7 through, about September or mid-October, wherever we
8 are right now.

9 I don't have a calculator so I don't do
09:33 10 that so well in my head but you could arrive at an
11 answer in that fashion.

12 Q. I understand, Dr. Steinfatt, and I could
13 do the math. You broke it down into an hourly
14 estimate, but I believe when you said that, you said
09:33 15 you're not sure that that would be true of every
16 month. Has there been a period that your work has
17 been more concentrated than others?

18 A. Well, any time there's a deposition
19 involved, there tends to be a bit more work either,
09:34 20 you know, just prior or during or things that come
21 from the deposition and perhaps just afterwards. So
22 that might tend to see a little spike in the graph,
23 if you were to graph it.

24 Q. Would you describe your work in the past
34 25 three months as being more, less or about the same as

09:34 4 1 the work you did in February, March, April of 1997
2 when you began?

3 A. Well, in February, I did essentially
4 nothing, I'm quite sure. I think there was initial
09:34 5 contact. In March, I believe there might have been a
6 meeting. So really in about April of 1997, as I
7 recall. I may be off by a little bit. But it was
8 about April of 1997 it was starting, and now I've
9 been doing quite a bit of reading. So certainly now,
09:35 10 you know, more than then.

11 Q. Well, let me rephrase the question
12 slightly, then. Would you describe your work in the
13 past three months as more, less or about the same
14 than the period April May June of 1997?

09:35 15 A. I think it's a bit more. Now again, I
16 would have to go back, I don't have specific
17 recollections, but I think it may be a bit more now.

18 Q. During these 40 to 65 hours a month, I
19 realize that is just an estimate, what type of
09:35 20 activities have you engaged in?

21 A. A number of different things. A good
22 portion of it is involved in reading, reading
23 depositions. For example, welfare recipients in
24 Oklahoma, depositions of trial testimony in
09:35 5 25 Minnesota, newspapers in Oklahoma, particularly The

1 Daily Oklahoman.

09:36

2 Q. Let me interrupt you and just to say,
3 because I will be talking about some of the materials
4 that you've indicated you rely on. So for the -- to
5 answer my question as to what scope of activities,
6 let's just take reading as one.

09:36

7 A. Okay, I understand where you're thinking
8 there. Yes. Well, certainly reading, going to the
9 library, searching the Internet and actually going to
10 a number of different libraries, sometimes traveling
11 to do that.

12 Q. What libraries have you visited?

09:36

13 A. Two principally. The University of Miami
14 library and the Library of Congress.

15 Q. Have you visited any libraries in
16 Oklahoma?

17 A. No, I have not visited any Oklahoma
18 libraries.

19 Q. How about Texas?

09:37

20 A. No, no Texas libraries. Actually I
21 believe on the Internet, I was into some card
22 catalogues or things like that, but no specific
23 materials. And I'm not sure it was even Oklahoma or
24 Texas.

r 37

25 Q. Can you recall the first time you were

A. WILLIAM ROBERTS, JR., & ASSOCIATES

09:27 1 approached about work in relationship to the Oklahoma
2 case?

3 A. I'm not sure I can recall a specific
4 time. I'm sure there had to have been one but I'm
09:37 5 not sure I would recall exactly when that was.

6 Q. Then can you estimate for me the amount
7 of time, the amount of hours that you have spent
8 devoted to work on the Oklahoma case?

9 A. Well, I would say that I've been
09:38 10 concentrating on Oklahoma certainly in August and
11 September, and a good part of July, I believe. So I
12 would think that a reasonable estimate would be
13 somewhere, let's say, mid-July on to about the
14 present.

09:38 15 Q. Did you undertake any activities specific
16 to the Oklahoma case different from the type of
17 activities you'd been doing up until then?

18 MR. NUNLEY: Objection to form.

19 BY MR. EVANS:

09:38 20 Q. Well, let me rephrase that a little bit.
21 You've described your activities as reading, reading
22 trial testimony and depositions, and searching the
23 Internet and visiting libraries. Are there any other
24 categories of activities that you undertook in
09:38 25 relation to the Oklahoma case?

39 1 A. Well, again, meeting with attorneys,
2 phone conversations with attorneys certainly.
3 Q. But you can't --
4 A. I can't think of other categories right
09:39 5 now. There may be something obvious that I'm not
6 thinking of, but that's what I'm -- that's the
7 principal thing.
8 Q. But you can't recall the first meeting
9 with attorneys that had to do with the Oklahoma case?
09:39 10 A. Physical as opposed to phone meeting?
11 Q. Any type of meeting.
12 A. My guess that that -- no, I don't
13 specifically recall it. I don't have a specific
14 remembrance of it. I'm just calculating that it must
09:39 15 have been around July, I would think. It might have
16 been earlier, but I would guess July. I don't have a
17 specific remembrance of it.
18 Q. In connection with your work as an expert
19 in this case, do you have any assistants who work
09:40 20 with you?
21 A. Yes, I do.
22 Q. And who is that or who are they?
23 A. Well, Madeline Hernandez is the principal
24 person who has been working with me.
09:40 25 Q. What is her title or connection?

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09:40 1 A. Well, she really doesn't have a title. I
2 suppose you would call her my research assistant.

3 Q. Is she employed by the University of
4 Miami?

09:40 5 A. No, she is a graduate of the University
6 of Miami, and I believe she is beginning graduate
7 classes somewhere in the city; I'm not sure. I'm
8 quite sure it's not at the University of Miami right
9 now. She just graduated.

09:40 10 Q. Do you employ her?

11 A. Yes, I do employ her on a -- not on a
12 regular basis but when I have something to do, I pay
13 her hourly for her work.

14 Q. What kind of work does she do for you in
09:41 15 connection with your role as an expert?

16 A. Well, she obtains materials for me from
17 various places. She will often go to a library for
18 me and get materials in that way, or get those
19 materials and put them together for me in any, you
09:41 20 know, any form that I ask her to retrieve them in.

21 Q. Do you ever separately bill her time to
22 Shook, Hardy & Bacon?

23 A. I might have done that once. I'm not
24 certain. I know I have not done that for quite some
09:41 25 time. I think I may have done that a year ago, once,

09:41 1 possibly twice, and then I looked at it and thought
2 that that was something that I should probably absorb
3 myself, so I am certain I have not done that
4 recently.

09:41 5 Q. Can you -- are there records that you can
6 go back to to confirm whether or not you did that?

7 A. Well, I could certainly look at the
8 billing statements that I have sent to Shook, Hardy.

9 Q. Have you created any documents in
09:42 10 connection with your work as an expert in this case?

11 A. Yes, I have.

12 Q. And can you tell me the nature of those
13 documents?

14 A. Yes, I believe one is an expert statement
09:43 15 and one is a list of opinions.

16 (Pause.)

17 Q. Dr. Steinfatt, I would like to have you
18 look at a list of -- actually, this is a letter that
19 that came from Julia Tyler to Charles Mikhail, and I
09:43 20 have labeled this as Exhibit Steinfatt 1.

21 (Steinfatt Exhibit 1 identified.)

22 BY MR. EVANS:

23 Q. If you would look at that, please.

24 Dr. Steinfatt, have you seen this letter
09:43 25 prior to today?

09:13 1 A. No, I don't believe I have.

2 Q. Well, I'll ask you just to take a moment,
3 then, to look at.

4 (Witness reviewed the document.)

09:44 5 A. I've looked through it.

6 Q. Thank you. The letter indicates that
7 these are documents -- well, actually the letter says
8 "we are not producing the following documents upon
9 which Dr. Steinfatt will rely," and I understand that
09:44 10 the reason they were not physically produced is
11 because they had been previously produced.

12 But as far as the information here, that
13 these are materials upon which Dr. Steinfatt will
14 rely, is that an accurate statement, that these
09:44 15 documents listed are documents you intend to rely on
16 in offering your opinions?

17 A. Not being an attorney, I'm never certain
18 exactly what attorneys mean when they say "rely."
19 These are documents -- they are in the public
09:45 20 record. I have looked at those documents. I do not
21 want to be in the position of saying that what's in
22 them is true, accurate or anything else. I simply
23 know that those are documents and that I have looked
24 at them.

09:15 25 Q. Did you select these documents as

09:45 1 materials that you considered important many forming
2 your opinions?

3 MR. NUNLEY: Objection; compound.

4 THE WITNESS: I think it depends on which
09:45 5 documents you look at, and I think I would also say
6 that I had an influence on some and I selected
7 others, and so it probably depends on which
8 particular ones.

9 BY MR. EVANS:

09:45 10 Q. Was this list of documents prepared by
11 you?

12 A. This particular list was not prepared by
13 me, but it is an accurate list. Among other kinds of
14 documents that I've looked at.

09:46 15 Q. Did Ms. Tyler or anyone go through this
16 list of documents with you?

17 A. I've talked with Ms. Tyler quite a number
18 of times about each of these documents, yes.

19 Q. Did anyone indicate to you that this was
09:46 20 a list of documents that would be provided to
21 Plaintiffs' counsel in this case?

22 A. I believe that Ms. Tyler and I had a
23 conversation at some point in which she gave to me,
24 you know, a statement of -- I remember a conversation
09:46 25 in which we said that we're not going to produce

05 6 1 certain documents specifically physically because
2 they have already been produced, and here is what
3 they are, something like that. I remember some
4 conversation, yes.

09:47 5 Q. And I'm not interested in the issue of
6 the physical production of them. I'm interested in
7 the compiling of this list, the selecting of material
8 that went on this list. Are you testifying that you
9 did not select the particular materials that are in
09:47 10 this letter?

11 MR. NUNLEY: Objection; mischaracterizes
12 the prior testimony.

13 THE WITNESS: The way I would phrase it
14 is this -- and I'm not sure if I can agree with your
09:47 15 question as asked -- but I've looked at a very large
16 amount of material. Some of that material was in the
17 materials of Dr. Wayne Morgan, some of that material
18 was not. I'm not privy to information on
19 specifically what was in Wayne Morgan's or not.
09:47 20 Other people are.

21 And so knowing the entire list of things
22 that I have talked about with Ms. Tyler, she would be
23 in a position, not I, to know specifically what's in
24 Wayne Morgan's and isn't in mine, in terms of what's
09:47 25 specifically listed there.

C 47 1 All of those things are things that I
2 have selected to read. Some of those things -- for
3 example The Daily Oklahoman, for example, versus,
4 let's say, the Tulsa World or whatever, some of those
09:48 5 things are things that you talk about and think
6 about, well, should you do this one or should you do
7 that one, or whatever.

8 But each of these are things that I've
9 asked to see or have asked in the general sense of
09:48 10 saying well, let's see, you know, I think I should go
11 to the Reader's Guide or I think I should go to
12 national periodicals kind of thing. Some of those
13 things are absolute personal decisions, other things
14 are things that wind up in discussion with people.

15 BY MR. EVANS:

16 Q. Let's go through them, then. Articles
17 from The Daily Oklahoman, and you distinguished
18 between articles from The Daily Oklahoman and
19 articles in the Tulsa World. Did you indicate that
09:48 20 there were particular articles from The Daily
21 Oklahoman that you planned to rely on in forming your
22 opinions?

23 A. Yes, I said that there were articles that
24 I intended to look at and wanted to obtain, yes,
C 49 25 correct.

09:49 9 1 Q. Was there a universe of articles from the
2 Tulsa World that you indicated were not as important
3 to you?

09:49 4 A. Well, any state has many newspapers, and
5 the question comes as to which newspapers might be
6 the most influential, how many newspapers does one
7 look at. And in a state with a large population and
8 many newspapers, all from -- in very diverse areas,
9 one might choose to look at many different
09:49 10 newspapers.

11 Here I felt well, I think The Daily
12 Oklahoman is going to be reasonably representative of
13 Oklahoma. I can't absolutely swear that it is
14 without looking at every other newspaper, but it
09:49 15 seems to me that it's a reasonably representative
16 newspaper, and therefore, I selected it.

17 Q. Now, what do you base that statement that
18 it seems to be a reasonably representative newspaper
19 on?

09:50 20 A. Well, I would say that the largest
21 population concentration in Oklahoma is in Oklahoma
22 City. The Daily Oklahoman is a newspaper that
23 reaches that particular population. So in terms of
24 an urban population, the largest single urban
09:50 25 concentration in Oklahoma, it reaches those people.

0 50 1 It's also available outside of that area, in some
2 cases by delivery by trucks, in some cases by mail;
3 it's generally available. There's probably no single
4 newspaper that one could pick that everybody in
09:50 5 Oklahoma says yeah, that's my newspaper.

6 Q. Do you know the approximate circulation
7 of The Daily Oklahoman?

8 A. I don't know exactly what it is. I'm not
9 sure. I believe it's larger than any other newspaper
09:50 10 but I forget what that is exactly. I believe the
11 Tulsa World is second, and I think there's one
12 perhaps from Lawton, Oklahoma. I think it might be
13 the Constitution, which I believe is third. And I am
14 reasonably certain of that rank order, but I am not
09:51 15 at all certain without looking it up the exact
16 circulation of the newspaper.

17 Q. Can you recall where you saw the
18 information that ranked the newspapers, The Daily
19 Oklahoman and the Tulsa World, in terms of their
09:51 20 circulation?

21 A. I don't recall specifically where I saw
22 that, no.

23 Q. But are you quite certain that you did
24 see a ranking of their circulation?

0 51 25 A. I'm quite certain that that is the

09:51 1 ranking, but I am not absolutely certain where that
2 ranking appeared or how I'm certain of that. That
3 may have been -- that information sometimes occurs in
4 texts, in the area of journalism in which they're
09:51 5 giving examples within a particular state of what are
6 the most important media in terms of circulation.
7 I'm not sure where it was, though.

8 Q. The next item on the list is the Oklahoma
9 state and textbook reports by Dr. Richard Means?

09:52 10 A. Yes, that's correct.

11 Q. Are these materials you plan to rely on
12 in offering your opinions in this case?

13 A. Well, I think they are reliable
14 materials. Again, I'm not trying to play with the
09:52 15 words, but I never am quite certain what people mean
16 by "rely." But yes, I think they are reliable
17 materials. I think Dr. Means's report in Oklahoma is
18 a very accurate report, so in that sense, yes, I rely
19 on it.

09:52 20 Q. Well, Dr. Steinfatt, one of the reasons
21 we are here today is to discuss the materials on
22 which you will rely in offering an opinion in this
23 case; that's one of the things that we are entitled
24 to ask you about and that you should be prepared to
09:52 25 testify on.

0' 52 1 Can you tell me today that you plan to
2 rely on the Oklahoma state and textbook reports by
3 Dr. Means in offering your opinions in this case?

4 A. All right. Can you define for me the
09:53 5 word "rely" as you're using it in this context?

6 MR. NUNLEY: Maybe I can short-circuit
7 it. Mr. Evans, I can tell you that, to the extent
8 that documents appear on our reliance materials,
9 within the legal concept of that word and your
09:53 10 understanding and my understanding of the orders in
11 this case, he will rely on them; that's why we've
12 listed them. You are free to inquire about them
13 today; that's why they have been disclosed to you.

14 MR. EVANS: And I thank you for that
09:53 15 answer.

16 BY MR. EVANS:

17 Q. Can you tell me the type of information
18 that you got from the Oklahoma state and textbook
19 reports by Dr. Richard Means that you consider
09:53 20 important in your opinions today?

21 A. Well, principally information about
22 health education within the public schools in
23 Oklahoma.

24 Q. What information did you glean about
0' 54 25 health education in the public schools in Oklahoma?

09:54 1 A. I'm interested in what was in the public
2 domain and what public knowledge might have been, and
3 particularly with respect to smoking and health. And
4 so I'm certainly interested in looking at any
09:54 5 documents which might be newspapers, may be textbooks
6 in a public school, which are required, or courses
7 which are required.

8 Dr. Means's report goes back to
9 essentially the beginning of time, which is somewhere
09:54 10 in the 1890s, I guess, in Oklahoma in terms of a
11 public school system, perhaps the late 1880s, and
12 discusses what textbooks or at least what curriculum,
13 if not what textbooks always, is required within the
14 school system.

09:54 15 In looking at that, I'm able to determine
16 whether or not smoking and health was one of those
17 things, and when it became an important thing. Did
18 it become an important thing in 1990 or did it become
19 an important thing in 1890 or somewhere in between?
09:55 20 That general kind of information.

21 Q. Well, tell me, Dr. Steinfatt, what
22 conclusions you reached by your review of the state
23 and textbook reports.

24 A. Well, in the Means report, Professor
09:55 25 Means points out that health considerations were

0^ 55 1 important just about from the earliest times, and
2 that sections were required under headings I believe
3 such as narcotics.

4 Now, whether the state of Oklahoma
09:55 5 considered tobacco, nicotine narcotic at that point,
6 my personal guess, purely personal, would be probably
7 not. But you look at that and I say well, now, were
8 they under this heading "teaching smoking and
9 health." I'd have to say I don't know.

09:55 10 But then later, when you get to a
11 specific thing where it says we're going to teach
12 about the dangers of this, that and the other thing,
13 and then one particular part of that is labeled, you
14 know, things with tobacco, is one of the things that
09:56 15 we're certainly going to be talking about in this
16 curriculum, then you know specifically that, at least
17 at that point, tobacco was mandated by the state
18 education system as a subject to be taught in the
19 schools, apparently to all students of the public
09:56 20 schools in Oklahoma.

21 Q. Historically, at what point, from your
22 review of the textbook reports, did you see a
23 specific reference to tobacco?

24 A. Well, to be absolutely certain, I would
0^ 56 25 want to go back and look at that report, but I

09:56 1 remember with some degree of certainty that, from the
2 very early 1950s on -- I believe 1952 is the date --
3 that there are specific mentions. And I believe that
4 there is something that specific mentions earlier
09:56 5 that, perhaps in about the 1930s; I seem to remember
6 1936.

7 And then those messages appear to get --
8 they're rephrased after 1952. They're called
9 slightly different things, but there seems to be a
09:57 10 very clear, direct, labeled strong emphasis from 1952
11 on.

12 In terms of earlier things, it appears
13 that smoking from everything that I can see was
14 actually taught well before that, as something that
09:57 15 one should stay away from. Typically it was taught
16 that in most schools in the nation, as a matter of
17 fact, well before World War I.

18 But to see specific mentions of it, you
19 have to look a little more detailed into the Means
09:57 20 report and you have to see what are some of the kinds
21 of content of some of the textbooks.

22 Q. You mentioned a difference in phrasing
23 after 1952. Can you clarify for me the phraseology
24 that was used up until about 1952 as compared to the
09:57 25 phraseology that was used later?

57 1 A. Probably not without looking at the Means
2 report. That's simply my memory of it, in reading a
3 tremendous number of different documents. But if we
4 look at that, I think we will see that there is a
09:58 5 phrasing change about that date, as I recall.

6 Q. Well, obviously a phrasing change sticks
7 in your mind. Can you, in general terms,
8 characterize the difference in how it was phrased up
9 until about 1952 and later?

09:58 10 A. Well, I think that '52 -- and again this
11 may have been '56 but '52 is the date that's sticking
12 in my mind -- that the words "tobacco" and "smoking"
13 are very prominent in the statement. And either they
14 might be not present there but implied, in other
09:58 15 things we're going to teach about -- it might say,
16 for example, alcohol and other evils, you know, that
17 the young people get involved in or something like
18 that, whereas here it says very specifically smoking
19 or smoking and health or tobacco or something along
09:58 20 that line. I know that there's some specific change
21 at that point.

22 Q. In your previous response, you mentioned
23 that -- and correct me if I'm wrong -- that Oklahoma,
24 like most other states in the nation, had information
59 25 on smoking in their textbooks?

0' 9 1 A. Yes.

2 Q. Am I correct?

3 A. That is correct.

4 Q. What survey have you done of textbooks in

09:59 5 the rest of the nation?

6 A. Well, I've looked at the Means report, I

7 believe for the state of Florida; looked at the Means

8 report for the state of Washington. I believe I've

9 looked at the Means report in Minnesota and in

09:59 10 Texas. I'm not positive of Minnesota, but in general

11 in those states. And so far, although that's

12 certainly not 50 states, there does not seem to be

13 much variation between the states in terms of did

14 they or didn't they teach smoking and health.

09:59 15 There does seem to be variation in terms

16 of specific textbooks. There seems to be variation

17 in terms of how it was treated, but that is -- you

18 know, it's always treated as a negative and as

19 something that is connected with health consequences.

10:00 20 Q. And in your memory, there's nothing

21 particular about the Oklahoma treatment of the issue

22 than, say, Minnesota or Washington?

23 A. I would want to go back and look, but in

24 my memory, I don't remember a great deal of

10:00 25 difference. Professor Means himself might be able to

1 00 1 point out specific differences. As I read them, it
2 seems clear that the state of Oklahoma was concerned
3 with the issues of health. Early on it was part of
4 the curriculum, and that certainly smoking, tobacco
10:00 5 seems to have been part of that concern.

6 Q. Dr. Steinfatt, we've been at this about
7 an hour. Could I suggest we take a short break?

8 MR. NUNLEY: You didn't know it but he
9 was just looking at his watch.

10:01 10 THE WITNESS: I looked at my watch right
11 then and was waiting for you to pause to ask for a
12 break.

13 MR. EVANS: Clearly we're in sync.

14 THE WITNESS: Sounds good.

10:01 15 VIDEO OPERATOR: We're off the record at
16 10:01.

17 (Recess.)

18 VIDEO OPERATOR: We're back on the record
19 at 10:15.

10:15 20 BY MR. EVANS:

21 Q. Dr. Steinfatt, I want to refer just for a
22 couple of more items on the Exhibit 1 that I've given
23 you, the letter from Ms. Tyler to Mr. Mikhail.

24 Still on page 1, among the list of
1 16 25 materials here, it says "excerpts from Reader's Guide

10:06 1 to Periodical Literature," and below that, "excerpts
2 from The New York Times index." Can you tell me in
3 what aspect you plan to rely on these materials in
4 offering your opinions?

10:16 5 A. Yes. In both of those cases, the
6 Reader's Guide and The New York Times index, have
7 headings, things such as smoking, tobacco, health,
8 smoking and health; they are in different indices.
9 And by looking that up, you can get an idea of what
10:16 10 was published in The New York Times on a given date
11 or within a given set of dates that had to do with
12 that issue; or with Reader's Guide, you know, general
13 circulation publications.

14 Q. So these are just indices of titles of
10:17 15 articles; correct?

16 A. Titles of articles. In some cases, it
17 may be a bit more than title or abbreviated title,
18 but yes, basically it's a resource to go find what
19 was available, yes.

10:17 20 Q. So you're relying on the existence of
21 these indices rather than the content of the articles
22 listed; is that correct?

23 MR. NUNLEY: Objection as to form.

24 THE WITNESS: I'm not certain I

10:17 25 understand the question. What I'm relying on with

17 1 the Reader's Guide or with The New York Times is that
2 it is a good, reliable and complete listing of what
3 was in The New York Times, or whatever it's referring
4 to. If there is an error there, then it's an error
10:17 5 that I am susceptible to.

6 But I do not think that there are errors
7 in general, because other people tend to point them
8 out very rapidly to The New York Times, to the
9 Reader's Guide. People correct those all the time,
10:18 10 so I believe those are generally accepted as good
11 references.

12 BY MR. EVANS:

13 Q. Is there any indication in the Reader's
14 Guide or The New York Times index that indicates
10:18 15 readership or circulation of a given article?

16 MR. NUNLEY: Of a given article?

17 BY MR. EVANS:

18 Q. Of a given article that is listed on the
19 index.

10:18 20 A. I don't believe that there is. I don't
21 see how there could be, with a given article, on a
22 readership thing. There might be some figures
23 somewhere there that list circulation of a
24 publication, but for example, suppose it lists
1 18 25 Reader's Digest, I don't see how they would know

1 without doing a very direct survey as to who is
2 reading what specific article.

3 So no, I don't believe that there is any
4 such information there.

10:19 5 Q. So there's no way to look at either the
6 Reader's Guide or The New York Times and have any
7 authoritative information on whether or not any
8 person in Oklahoma read any article listed; is that
9 correct?

10:19 10 A. I don't think that you could go to the
11 Reader's Guide, notice that there was an article on X
12 on date Y and make a statement that any specific
13 individual anywhere, you know, read that particular
14 article. That would need to be a separate study.

10:19 15 Q. And have you conducted any separate study
16 of who in Oklahoma, for example, has read a given
17 article?

18 MR. NUNLEY: Objection as to form.

19 THE WITNESS: I haven't conducted a study
10:19 20 in terms of going and asking people in Oklahoma, did
21 you on or before the date of such and so read a
22 particular article. I think what I'm looking at with
23 those articles is their availability. We're looking
24 at awareness in general.

1: 20 25 And any time that you have an article

1 20 1 that appears in The New York Times or that appears
2 particularly in the Reader's Guide, so that it would
3 be something like a much more general circulation
4 publication, Newsweek, U.S. News, Reader's Digest, we
10:20 5 could find, then, the circulation of those in
6 Oklahoma.

7 Now, one can speculate about who reads
8 what and what it is, but generally, those journals
9 will do surveys of their own, which will discover are
10:20 10 people reading these kinds of articles, or are they
11 not reading those kinds of articles. They know, in
12 general, approximately what proportion of any state
13 population tends to read what types of articles that
14 appear in their journals.

15 BY MR. EVANS:

16 Q. But that sort of survey has not been a
17 part of your study in this case; correct?

18 A. I have not looked specifically at the
19 readership figures for every -- let me correct that.

10:21 20 I have not looked specifically at the
21 readership figures for those journals for Oklahoma.

22 Q. Have you looked generally at readership
23 figures for those journals in Oklahoma?

24 A. I'm not sure of the difference between
10:21 25 those two. I guess I didn't catch the --

21 1 Q. Your answer was you have not specifically
2 looked. Have you, in a general sense, looked?

3 A. Oh, oh, okay. Well, I do know that there
4 is -- and I would not be able to tell you a
10:21 5 proportion or number without looking, but I know that
6 there are quite a number of people in the state of
7 Oklahoma who subscribe to news magazines, such as
8 U.S. News, Time, Newsweek, those kinds of things.
9 There are quite a number of people who subscribe --
10:21 10 and as I say, subscribe in the present, I'm referring
11 to many years into the past too -- to things like
12 Reader's Digest. So we know that many people do
13 subscribe. One can always argue about what one does
14 after one receives the subscription.

10:22 15 Q. Do you know anything about the readership
16 of the Reader's Guide to Periodical Literature?

17 A. I'm not certain exactly what you mean by
18 do I know anything about the readership of it, who
19 tends to look in the Reader's Guide?

10:22 20 Q. Who tends to look in the Reader's Guide?

21 A. Researchers, college students.

22 Q. And by listing as reliance material the
23 Reader's Guide to Periodical Literature and the New
24 York Times index, you are not making reference to a
1 22 25 particular publication listed on either of those

1' 3 1 indices; is that correct?

2 A. If I understand your question correctly,
3 it's correct; that is, the Reader's Guide might say
4 in January 19XX, Reader's Digest published a
10:23 5 particular article. I don't mean to say, by agreeing
6 with your question, that they did not say that. I
7 mean I'm not sure exactly what your question means
8 there, I guess. So maybe what I should do is say
9 simply rephrase your question and I'll try to answer.

10:23 10 Q. And I'll admit that I didn't quite
11 understand your answer. I will ask the reporter to
12 repeat my question.

13 (The reporter read the record as requested.)

14 MR. NUNLEY: Well, I'm going to object to
10:24 15 the form of the question because --

16 THE WITNESS: I think the negative -- I'm
17 sorry.

18 MR. NUNLEY: Because what he's done is
19 much more than that. I mean, you have for the
10:24 20 Reader's Guide something like 500 pages for the
21 excerpts; it looks like for The New York Times you've
22 got 746 pages. So it's not just a matter of
23 identifying them. We've provided excerpts to you
24 with articles on them. If you want to ask him about
10:24 25 specific articles, you're free to do it.

24 1 MR. EVANS: Thank you.

2 BY MR. EVANS:

3 Q. The materials provided to us,
4 Dr. Steinfatt, are excerpts from the Reader's Guide
10:24 5 to Periodical Literature and excerpts from The
6 New York Times index. There are not particular
7 articles listed in those indices; isn't that correct?

8 A. The titles and references of the
9 articles. There are no articles, you know,
10:25 10 full-blown in the index. And that's what I was not
11 sure if that's what you meant when you put the "not"
12 in there. I thought that was a bit confusing. But
13 yes, those are listings of what articles are there,
14 it will have titles, it will have citations, it will
10:25 15 have page numbers. It's where you can go to find the
16 full article. The full article is not in The
17 New York Times index, the full article is not in the
18 Readers Guide to Periodical Literature.

19 Q. Thank you. On the second page of this
10:25 20 letter before you marked Exhibit 1, if you would look
21 at that, please. It says "in addition, Dr. Steinfatt
22 relies upon the following materials. Deposition
23 testimony of various tobacco company employees," and
24 then it lists five names: Myron Johnston, Claude
1 25 25 Martin, Walker Merryman, Kathy Ellis and James

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10:25 1 Morgan.

2 Are there any other depositions you've
3 read other than the five listed -- let me withdraw
4 that question.

10:26 5 Did you ask anyone for these particular
6 depositions, or were these depositions provided to
7 you by Defense counsel?

8 A. I asked to see representative
9 depositions, including, you know, some high level
10:26 10 people, which I guess would include James Morgan, in
11 terms of what was being said, you know, in terms of
12 trial testimony. I would not have necessarily known
13 specifically who was testifying, I wouldn't have
14 known, you know, specifically the particular
10:26 15 individuals to ask, but I certainly did request that
16 I see those kinds of depositions as to how the
17 tobacco companies were stating their case, and how --
18 actually, I should say individual employees within
19 individual companies, how they were stating their
10:27 20 positions.

21 Q. Are all the five people listed here
22 Defendants' witnesses?

23 MR. NUNLEY: Objection as to form and
24 foundation. What do you mean by that, for the
10:27 25 witness?

1 BY MR. EVANS:

2 Q. Do you know, Dr. Steinfatt, if the five
3 people here were witnesses on behalf of the
4 Defendants in these cases?

10:27 5 A. From reading the depositions, as I
6 recall --

7 MR. NUNLEY: I still don't understand.
8 What do you mean? If the depositions were taken and
9 it's not trial testimony, how is he supposed to glean
10:27 10 whether they are witnesses for the -- for anybody? I
11 mean, they're just appearing as -- I don't understand
12 how you expect him to glean the answer to your
13 question from deposition testimony.

14 Do you see my problem?

10:28 15 MR. EVANS: I do, I do. I do, and I'll
16 move on.

17 BY MR. EVANS:

18 Q. The last thing listed on this letter,
19 Dr. Steinfatt, it says "deposition testimony of
10:28 20 Oklahoma Medicaid recipients." Did you specifically
21 ask to see that deposition testimony?

22 A. What I asked was for the availability of
23 information from citizens of Oklahoma, just is there
24 information available that I could look at, you know,
? :28 25 short of going to Oklahoma and trying to conduct some

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10:28 1 kind of interviews or surveys on my own.

2 And in looking over these Medicaid
3 recipients' depositions, I think they certainly
4 represent at least the individuals for whom they were
10:29 5 taken and have no reason to believe that they
6 don't -- that they aren't fairly representative of at
7 least Medicaid recipients in general, as one part of
8 the population of Oklahoma.

9 Q. Approximately, how many Oklahoma Medicaid
10:29 10 recipient depositions did you read?

11 A. Somewhere around two dozen. I wouldn't
12 give you the exact number, but it's pretty close to
13 two dozen.

14 Q. Do you know how many in all were taken,
10:29 15 how many depositions of Oklahoma Medicaid recipients?

16 A. I honestly do not know how many were
17 taken.

18 Q. Dr. Steinfatt, in addition to the
19 materials listed on this letter, which were not being
10:29 20 physically produced because they had been previously
21 done so, Defense counsel provided to the Plaintiffs
22 some additional materials listed as materials you
23 intend to rely on. And I was not provided with an
24 index of those, but I would like to just ask about a
10:30 25 couple of them.

1' 30 1 Among those materials were three books on
2 the history of Oklahoma, one entitled history of
3 Oklahoma, one entitled "Oklahoma, a History of the
4 Sooner State," and one entitled "The History of
10:30 5 Oklahoma." Did you select those books or did Defense
6 counsel select -- refer you to them?

7 A. I asked my research assistant to go to
8 the library and to look through the section of what
9 we had at the University of Miami library available
10:30 10 on Oklahoma, particularly in terms of its history.
11 And those are the three books that appeared. So I
12 did not select them, I asked someone to go there and
13 select them.

14 After that, I went back through to the
10:31 15 library and checked myself to see if there were some
16 other books that the research assistant had not
17 picked out, and in looking at what was available on
18 the shelf and in the card catalogue, that looked like
19 a reasonably good sample.

10:31 20 I was just a little surprised to see
21 three books that all had the title history of
22 Oklahoma, pretty much. I thought I might see a
23 little wider sampling but from what we have available
24 at the University of Miami library; that's a pretty
1' 31 25 good sample, as a matter of fact.

10:31 1 Q. What, in particular, information did you
2 get from these history books of Oklahoma that you
3 were using to form a basis of your opinions today?

4 A. Well, principally a feeling, I suppose
10:31 5 one would describe it, of what Oklahoma is about, you
6 know, what it is, what the people of Oklahoma have
7 historically felt about issues, what have been
8 important issues, largely background information.

9 Nothing specifically, that I can recall,
10:32 10 in any of the books specifically relating to numbers
11 of people who smoke or anything like that. Rather,
12 simply background historical information on the
13 state, which I think I knew a reasonable amount about
14 before but I know much more about after having read
10:32 15 the book.

16 Q. Also listed in those materials are the
17 deposition of Ken Nance and the deposition of Tom
18 Rogers. Who is Ken Nance?

19 A. Ken Nance, I believe, is a lobbyist in
10:32 20 Oklahoma.

21 Q. Do you know who he works for?

22 A. I believe he now works for the Tobacco
23 Institute.

24 Q. And what about Tom Rogers, who is Tom
10:32 25 Rogers?

32 1 A. Tom Rogers is also a lobbyist in the
2 state of Oklahoma.

3 Q. Did you ask specifically to see these
4 depositions, or were they provided to you by Defense
5 counsel?

6 A. Again, I would have had no way of knowing
7 specific names of specific lobbyists, but I asked to
8 see depositions to talk about lobbying, since that
9 potentially was part of what might be talked about in
10:33 10 a propaganda campaign. I wanted to see if there was
11 information on lobbying activities.

12 Q. And finally, there is an article authored
13 by you, entitled "The Effects of Initial Belief Level
14 on Inoculation Theory and its Proposed Mechanisms."
10:33 15 And I believe I've seen, in your list of
16 publications, at least a couple of things on
17 inoculation theory. That's an area that you've
18 studied quite a bit; is that correct?

19 A. That's correct, and the article you
10:34 20 mentioned I believe is a coauthored article, if I
21 have the title correctly, but yes, I'm one of the
22 authors.

23 Q. Can you give me, without being too
24 detailed for my uneducated ears, a simple explanation
1 34 25 of what the inoculation theory of communication is?

10 4 1 A. I can certainly try. Inoculation theory
2 comes from what is called a biological analogy, and
3 the biological analogy is that sometimes we're able
4 to develop a vaccine -- simple, you know, analogy --
10:34 5 and if you could develop a vaccine, then that vaccine
6 would have something at least to do with
7 susceptibility to either future viruses in the case
8 of -- or future germs, in quotes; or in the case of a
9 message, it might, if it was well constructed, be
10:34 10 able to reduce the possibilities that a future
11 message would be effective.

12 And basically, that's the inoculation
13 effect. You're trying to give somebody a message
14 which is going to reduce the effect of future
10:35 15 messages.

16 Q. So how does that -- give me an example,
17 if you will, of how that would affect a listener's
18 response to a message. I'm trying to give as
19 concrete an example as I can -- well, you're the
10:35 20 expert. I'll ask you, because you have written about
21 this a good bit, an example in real life terms of a
22 listener being inoculated to a message.

23 MR. NUNLEY: Object to form.

24 THE WITNESS: Certainly. Suppose that we
10:35 25 are discussing toothbrushing and suppose for some

35 1 reason we didn't want people to brush their teeth,
2 and suppose that I knew or thought there was a
3 reasonable probability that someone else would argue
4 that you ought to brush your teeth for a number of
10:36 5 different reasons, because A, people won't want to
6 get near you if you don't brush your teeth; B, it's
7 going to cause tooth decay and you're going to have
8 to wear false teeth; C, perhaps something else, it's
9 going to be very painful having to sit in the
10:36 10 dentist's chair.

11 Now, if one knew that those are the
12 principal arguments that somebody is going to use,
13 then one way that inoculation theory works would be
14 to look at those specific arguments and perhaps
10:36 15 attack a particular argument. And that attack could
16 come in a number of different ways.

17 Normally it would come in an active kind
18 of sense; that is, asking the person to state some
19 specific kind of thing that is a message which sort
10:36 20 of argues against this incoming thing that says you
21 should brush your teeth, and gets the person to
22 recognize, perhaps, that there are flaws in the
23 evidence, that it's not in accord with their own
24 views, that it's against their own interests, any
37 25 particular thing that could be done to remove an

1' 7 1 effectiveness of an incoming message; if that gives
2 you kind of a quick background.

3 BY MR. EVANS:

4 Q. It does, but I want to explore it more.
10:37 5 You're looking at the effect on a listener who has
6 not yet heard the message you should brush your
7 teeth; is that correct?

8 A. Not exactly, no. In fact, the point of
9 our articles was specifically the opposite of that,
10:37 10 specifically to look at situations where people had
11 been involved in hearing both sides. The research
12 done prior to my article with Bart Pryor had used
13 what was called truisms, and truisms were things that
14 everyone pretty well believed or believes; again,
10:38 15 things like you ought to brush your teeth after every
16 meal.

17 What we looked at quite specifically was
18 issues where there was a good deal of give-and-take
19 on both sides, in which the issues were not as
10:38 20 clear-cut and people would not simply respond to the
21 gut level in one direction or another.

22 Q. Now, the researcher who did a lot on
23 inoculation theory, his name is McGuire; is that
24 correct?

1' 8 25 A. That's correct.

38 1 Q. And McGuire's theory worked on a listener
2 who had never heard -- in fact, McGuire's theory
3 depended on the listener having never heard the
4 message you should brush your teeth; am I overstating
10:38 5 that or is that correct?

6 A. I think that's perhaps a bit of an
7 overstatement. McGuire used, in his research,
8 truisms. His theories, which is what you're
9 referring to, never specified truisms. His theories
10:39 10 were in terms of general cases, but his research was
11 almost always in terms of specific cases.

12 Q. Your article suggests that we needn't
13 have the condition of the listener who has never
14 heard the message, that we can also study the
10:39 15 inoculation effect on a listener who has heard the
16 message before in some form?

17 MR. NUNLEY: Excuse me. That's a
18 question; is that correct?

19 BY MR. EVANS:

10:39 20 Q. Is that correct?

21 A. We did not argue that one can study such
22 other instances. We simply went about studying
23 them. And we attempted to report on the differences
24 that one might find if one looks at truism kinds of
39 25 things as opposed to issues which are nontruisms

10 9 1 issues, which are more give-and-take, let's say.

2 Q. I am very interested in this topic.

3 Let's get to more specific examples. Explain to me
4 the effect on the listener, prior to having heard the
10:40 5 message, you should brush your teeth, of hearing an
6 argument in favor of that proposition.

7 MR. NUNLEY: Objection as to form. The
8 beginning of your question "explain to me" is not
9 proper. Phrase it in terms of a question, otherwise,
10:40 10 objection to form.

11 MR. EVANS: I appreciate the objection to
12 the question, and I do want to know a little bit more
13 about this inoculation theory from you, so if you
14 understand the question the way I phrased it and can
10:40 15 briefly answer it, I would appreciate it.

16 MR. NUNLEY: Same objection.

17 THE WITNESS: Given the conversation
18 between you, I'm sure I don't remember what the
19 question was. Perhaps the reporter could read it
10:41 20 back. And then, I'm not sure after she reads it back
21 if I will understand it, but let me at least listen
22 to it again. We'll see.

23 MR. EVANS: Certainly.

24 (The reporter read the record as requested.)

10 1 25 THE WITNESS: Okay. Now, explain to me

J 41 1 the effect on the listener. As I understand what
2 you're saying is the listener is hearing two
3 messages, both on the same side, both arguing that
4 the person ought to brush their teeth, so the
10:41 5 listener hears an argument, you ought to brush your
6 teeth. Sometime later, another argument, you ought
7 to brush your teeth.

8 That doesn't come directly under
9 inoculation theory. That comes more on the effect of
10:41 10 repeated messages. There's an area called
11 habituation research and the effect of repeated
12 messages. I'm not answering your question, but I am
13 suggesting it is part of the inoculation theory.

14 BY MR. EVANS:

10:42 15 Q. And I won't belabor this much longer.
16 Give me an example of a message that will inoculate
17 the listener to the message, you should brush your
18 teeth.

19 A. That is always a matter of research. And
10:42 20 what our research found is that it's rather difficult
21 to create such messages. It's possible but it's
22 difficult, especially in a context where there is a
23 lot of give-and-take of messages already, it's much
24 more difficult to obtain a resistance or inoculation
J 42 25 effect than an area that's pure and pristine, as they

1' '2 1 say in terms of the cognitive categories that someone
2 has never heard this message before.

3 And so while we certainly didn't conclude
4 in that article, and I have not read it for some time
10:43 5 but I'm sure that we did not conclude that
6 inoculation theory was no good or was all washed up.
7 We did conclude that it was a very complex matter.
8 So without doing specific research, I wouldn't be
9 able to do that.

10:43 10 There are a lot of different forms of
11 inoculation messages. There are inoculation messages
12 which are active and which are passive, and there are
13 different forms that appear to work better under
14 certain kinds of circumstances. But none of them
10:43 15 have any kind of guaranteed impact, and the impact of
16 each of them individually or all of them collectively
17 may not be terribly strong.

18 Q. And I appreciate the time you've spent on
19 this for me and we'll return to it in your list of
10:43 20 opinions.

21 Have you read the deposition of Wayne
22 Morgan?

23 A. I believe that's one of the depositions
24 that I read. I don't recall immediately who he is
1. '44 25 but that name sounds -- Jim Morgan I remember. Let

10:44 1 me look on the other --

2 Q. Yes. I don't want to confuse you on the
3 name Morgan, because there are two Morgans. There is
4 a James Morgan.

10:44 5 A. Yes, James is the one that I'm
6 remembering, and a Wayne Morgan, I may have read
7 that, but I'm not absolutely positive. I've read a
8 bunch of them so I'm not absolutely sure.

9 Q. But you don't have a specific
10:44 10 recollection of the deposition of Wayne Morgan?

11 A. Not immediately, no.

12 Q. Then do you have any familiarity with
13 Wayne Morgan's opinions in this case?

14 A. I have read a lot of material, and in
10:44 15 going back through some of that material, which I
16 keep as depositions and things, very often when I go
17 back through, I would say, oh, Wayne Morgan, yes, of
18 course, I remember that. And if I look at it, I
19 might immediately remember it. So whether I have
10:45 20 familiarity with it or not --

21 Q. And I'm sorry, I don't mean to interrupt
22 you, but --

23 A. No, that's all right.

24 Q. But the question, do you have specific
10:45 25 knowledge of Dr. Morgan's opinions in this case, and

10:45 1 the answer would be no?

2 A. I'm not sure that I could agree with your
3 "no." I might. I would want to look at something,
4 at least, within his deposition, and I might
10:45 5 immediately say, if I saw that deposition, oh, yes, I
6 remember this and be able to tell you more about it;
7 on the other hand, I might not. You know, I don't
8 remember the name immediately.

9 MR. NUNLEY: If you want me to, I can
10:45 10 answer the question of whether he's got the
11 deposition. I leave it up to you.

12 MR. EVANS: No, no.

13 MS. TYLER: You could enlighten the
14 doctor as to who Dr. Morgan is. That would cut to
10:45 15 the chase.

16 MR. NUNLEY: Whatever you want to do. I
17 didn't want to play cat-and-mouse with you. If you
18 want to know whether he's read it, I'm happy to tell
19 you.

10:45 20 MR. EVANS: No, I --

21 MR. NUNLEY: Okay, that's fine.

22 BY MR. EVANS:

23 Q. I was interested in your specific
24 recollection.

10:45 25 A. At the moment, I don't remember that

1 45 1 particular --

2 Q. Thank you. Are you an expert in history?

3 A. I'm not -- I enjoy history. I love

4 history. I'm not a PhD in it. I've actually never

10:46 5 taken a course in it, so I don't think there's any

6 way you could list me as an expert in history,

7 although I think personally I know a reasonable

8 amount about it.

9 Q. Other than the list of documents provided

10:46 10 in the letter from Ms. Tyler and the additional

11 documents that were physically produced to us, the

12 Plaintiffs' counsel, are there any other documents

13 that you are relying on to reach your opinions in

14 this case?

10:46 15 A. I guess I missed the first part of your

16 question, so other than this specific thing, are

17 there other documents?

18 Q. And the additional documents that were

19 physically provided to the Plaintiffs' counsel in

10:47 20 this case.

21 A. I don't believe there are other things,

22 no. Let me look to make sure of that here.

23 (Witness reviewed the document.)

24 Q. Did at any time --

1 47 25 MR. NUNLEY: Wait a minute. Do you want

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1' 7 1 him to look at that?

2 THE WITNESS: I would simply say this.
3 I'm not sure that -- for example, I have looked at
4 newspapers from Texas, I have looked at newspapers
10:47 5 from other places. Now, while that may not relate
6 directly to Oklahoma, in another way it might. It
7 seems to me what's in The Daily Oklahoman is very
8 representative of, you know, of that material. So
9 I'm not saying that I haven't read anything beyond
10:47 10 here.

11 Again, you have to remember I'm not an
12 attorney. I'm not trying to play with the word
13 "rely," but it's one of those words that I'm never
14 quite sure what attorneys mean when they use it.

10:47 15 That's why I balk at it a little bit. Not to play
16 cat-and-mouse with. But "rely"? I've read the
17 material and know approximately its reliability and
18 whether it's good material or not.

19 MR. NUNLEY: When an attorney says don't
10:48 20 worry, you can rely on me, you don't know what to
21 make of that?

22 BY MR. EVANS:

23 Q. Let me come back to that. Have you ever
24 talked with any representative of the tobacco
1. '8 25 industry, other than the representatives of Shook,

48 1 Hardy & Bacon that you have referred to, have you
2 ever talked with any representative of the tobacco
3 industry regarding the opinions that you are going to
4 give in this case?

10:48 5 A. I have talked with attorneys. Outside of
6 attorneys, I have not, to my knowledge, ever spoken
7 with anyone who works for the tobacco -- any given
8 tobacco company, or the Tobacco Institute or any
9 other organization connected with what you might
10:48 10 consider the tobacco industry. To my knowledge, no,
11 not at all.

12 Q. Have you done any review of materials
13 regarding tobacco company advertising?

14 A. I have looked at many advertisements that
10:49 15 have appeared over many years, in terms of what
16 tobacco companies have done in terms of advertising,
17 what they have used; I'm generally familiar with what
18 those are. I have not specifically looked at
19 advertising plans within corporations, but in terms
10:49 20 of the product, the ads that came out, yes, I'm
21 generally familiar with those.

22 Q. Have you seen any internal document from
23 a tobacco manufacturer discussing the issue of
24 advertising?

10:50 25 A. Yes, I believe I've seen internal

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1' 0 1 documents from companies and from ad agencies, likely
2 which have been hired by tobacco companies, which do
3 discuss the issue of advertising, yes.

4 Q. Okay. Where did you get those documents
10:50 5 from?

6 A. Many of them came from the production of
7 John Parrish-Sprowl, if not in this particular case,
8 then in previous cases in which he has testified.
9 Other such documents are available on the Internet,
10:50 10 and I have looked around the Internet in different
11 places to try to see what's available, but as I'm
12 sure you know, that's an almost hopeless task. You
13 spend hours and hours and hours and still have got
14 forever to read. Yes, I've looked around in general.

10:51 15 Q. Have you done any review of material
16 concerning tobacco companies' sponsorship of sporting
17 events?

18 A. In the context of the general review that
19 I've done, some articles in newspapers will refer to
10:51 20 the Winston Cup, they will refer to different kinds
21 of sporting events, where either there is sponsorship
22 or there is some connection, perhaps, one way or
23 another, to tobacco. Many people in the crowd were
24 smoking, maybe simply a statement like that.

11:01 25 But in terms of sponsorship, principally

51 1 in terms of looking at, again, public knowledge of
2 that, in terms of newspapers, periodicals, things
3 like that. I've never attended a Winston Cup, I have
4 never, you know, to my knowledge, received --
10:52 5 actually, I must have received -- no, I guess that
6 was for my father. I have never received any kind of
7 promotional thing myself.

8 Q. Have you ever reviewed any tobacco
9 industry documents discussing sponsorship of sporting
10:52 10 events?

11 A. I have seen some documents which refer to
12 that, yes.

13 Q. Can you recall one in particular?

14 A. Not without going back and looking, I
10:52 15 would not be able to. Some of the documents are, as
16 I'm sure you know if you've looked at them, not
17 terribly well identified. Some of them do not even
18 have dates on them. And at this point, I wouldn't
19 know without going back and looking at specifically
10:52 20 what document that was.

21 Q. But are you certain that you have seen
22 documents, industry documents, discussing sporting
23 events, promotion of sporting events?

24 A. I believe there is at least a reference
1 53 25 to a specific sporting event in one of them, I

1' 53 1 believe, for example, there is a reference to, let's
2 say, the Winston 500. I wouldn't be -- I wouldn't
3 want to swear that there's a statement there that
4 says we support event X, we provide so-and-so much
10:53 5 money, we do this, we expect that out of it, I would
6 not want to say that.

7 But I'm quite sure that there are at
8 least mentions there. It's not something that I've
9 particularly concentrated on, but I know in passing
10:53 10 that I have seen some kinds of references.

11 Q. Would you also list advertising as an
12 area that you have not particularly concentrated on?

13 A. Well, depends on what you mean as
14 "particularly concentrated on." I've looked at --

10:53 15 Q. Excuse me, Dr. Steinfatt. In exactly the
16 way you used it in your answer to the sponsorship of
17 sporting events, as not something you particularly
18 concentrated on. Would you also describe your review
19 of advertising materials in the same way?

10:54 20 A. Okay. No, I would not. I've certainly
21 looked at advertising, and I guess what I mean in
22 that sense, then, with the sporting events, is that
23 sporting events are simply one part of an advertising
24 picture. So I haven't specifically singled out
11:54 25 sporting events or advertisements in newspapers,

1 54 1 advertisements on radio and television when those
2 were allowed. I haven't specifically sorted out any
3 one but I have tried to look at advertisements, when
4 they existed, what did they look like, how are they
10:54 5 operating.

6 Q. You referred earlier to a couple of
7 depositions by lobbyists that you had read; is that
8 correct?

9 A. That is correct.

10:54 10 Q. Have you reviewed any tobacco industry
11 documents that discuss lobbying activities?

12 A. It seems that there are some in there,
13 and again I'm trying to remember names of
14 individuals. Without going back to the particular
10:55 15 documents I don't think I could identify exactly
16 who. But I believe that there are documents,
17 particularly relating to the Tobacco Institute, that
18 refer at least in part to lobbying activities.

19 Q. Do you have any more specific
10:55 20 recollection than that?

21 A. Again, given the number of different
22 things I've looked at, I really need to go back
23 specifically to refresh my memory on that. I know
24 that lobbying activities are certainly a part of the
1 55 25 Tobacco Institute. I know that there have been

10:55 1 references to that. I believe there have been
2 references to, you know, should individual companies,
3 is it in their best interest to turn these issues
4 over to the Tobacco Institute or should they do them
10:55 5 themselves. There are memos and things in there that
6 had to do with that.

7 Q. Have you read any press releases put out
8 by the Tobacco Institute?

9 A. Yes, I believe that a number of the press
10:56 10 releases that have been put out come from the Tobacco
11 Institute. Some come from companies, but many often
12 come from the Tobacco Institute.

13 Q. Can you point to a particular press
14 release that you recall?

10:56 15 A. Well, probably not. Again, there are
16 quite a number of them. In certain productions of
17 John Parrish-Sprowl, he has referred to different
18 press releases. And even within that very limited
19 sample, I'm not sure that I could sit here today and
10:56 20 say well, this one sticks out or that one sticks out,
21 but there's a series that he refers to particularly,
22 that go from around 1954 up until somewhere in the
23 1970s, I believe. And they're sort of distributed
24 across that time period, perhaps, 24 of them,
10:56 25 something like that, about two dozen. I've certainly

10:57 1 looked at all of those too.

2 To recall a specific one at this moment
3 without having it in front of me, I wouldn't want to
4 do that.

10:57 5 Q. You've referred to documents from John
6 Parrish-Sprowl. How did you receive these documents?

7 A. I received them from my research
8 assistant, Ms. Hernandez.

9 Q. How is this universe of documents
10 identified to you?

11 A. Actually, I'm not sure on that. I said
12 that I received them from Ms. Hernandez. On those,
13 I'm not positive. I think I received those documents
14 directly from Ms. Tyler. I'm not positive right

10:57 15 now. I usually keep the sheets that come Federal
16 Express that would tell me, and I might be able to
17 look on that. I think those came directly from
18 Ms. Tyler's office.

19 Q. In what way were they identified as John
10:58 20 Parrish-Sprowl documents?

21 A. Generally, the production, in quotes, of
22 John Parrish-Sprowl in case X.

23 Q. These were not documents written by John
24 Parrish-Sprowl?

1 :58 25 A. No, no. In fact, I don't think any of

10:58 1 them were documents written by John Parrish-Sprowl.

2 Q. And is this set of documents among the
3 documents that you rely on in forming your opinions
4 in this case?

10:58 5 A. Again, you will have to excuse my problem
6 with the term "rely" and perhaps the two of you can
7 settle that. Without meaning to be evasive at all, I
8 can simply tell you that I believe those documents to
9 be as they are represented to be. I believe that --

10:58 10 well, again, I don't want to try to read what's in
11 other people's minds, but they appear to be genuine
12 documents.

13 Now, if that means that I rely on them,
14 so be it.

10:59 15 Q. Do you use information in those documents
16 in forming the opinions you're stating in this case?

17 A. Yes, I certainly do use those documents
18 to an extent in forming those opinions, those and
19 others, but certainly I do use those in forming my
10:59 20 opinion.

21 Q. Have you reviewed any tobacco industry
22 documents regarding public relations activities?

23 A. Yes, some of the materials refer to
24 public relations activities.

10:59 25 Q. Can you point to any document in

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J 59 1 particular that refers to public relations
2 activities?

3 A. Again, I think my problem would be the
4 same as with the other. When you look, as I'm sure
10:59 5 you know, at a very large number of documents, it
6 becomes difficult to think about or identify any
7 particular one. There's nothing that absolutely
8 jumps out at me and says wow, this is the prime
9 example of a public relations document, no. I've
11:00 10 looked at a number of them.

11 Q. Is it your recollection that there are
12 lots of documents regarding public relations
13 activities?

14 A. That probably depends on how you define
11:00 15 "public relations." I'm in a school of
16 communication, and we constantly sort of debate the
17 issue as to what is and what isn't public relations.
18 So there are some things that seem very clearly
19 public relations. There are other things that well,
11:00 20 is that public relations or is that stepping more to
21 advertising, or what is that? It's a
22 representation.

23 So it probably depends on how broadly you
24 define the category of public relations and how
1 90 25 narrowly you define something else.

17 0 1 Q. When I asked you initially if you had
2 reviewed any documents regarding public relations,
3 you came forth with an answer, but when I asked you
4 about how many you may have reviewed, are you then
11:01 5 saying it depends on how you define it?

6 A. Yes, I think the number depends on --
7 exactly on that. If you give a very narrow
8 definition of public relations, or even then I'm sure
9 that I've seen documents that I would regard as
11:01 10 defining under the most narrow definition possible
11 public relations, yes, they still talk about public
12 relations.

13 However, if you make a very broad
14 definition, then in terms of the number, that would
11:01 15 obviously increase the number. The broader the
16 category, larger the number.

17 Q. Fair enough. Based on your review of
18 materials in forming your opinions for this case, can
19 you describe for me the functions of the Tobacco
20 Institute?

21 A. Well, the Tobacco Institute is what I
22 believe I would describe, certainly involved in
23 public relations for various tobacco companies. I
24 believe there are at least six tobacco companies --
11 2 25 I'm not sure of the exact number -- that it does

1 02 1 public relations for. I know that they support the
2 Tobacco Institute in varying amounts according to
3 some kind of a formula, which I think is there in the
4 literature but I wouldn't be able to tell you what
11:02 5 that formula is.

6 Q. Can you identify for me those documents
7 that you've reviewed from which you've been able to
8 ascertain the functions of the Tobacco Institute?

9 A. Well, again, you can use like the
11:02 10 Minnesota numbering system or whatever, and I'm
11 certain I have not memorized all those numbered
12 digits. If I had a document in front of me, I could
13 certainly tell you or at least more than likely tell
14 you, if I had looked at that document or not, whether
11:02 15 it's a memo from Hill & Knowlton or Kornegay or
16 whoever it happens to be from.

17 I could not tell you directly without
18 looking at documents which specific document says
19 what and whatever. That would be a rather monumental
11:03 20 memorization task. So no, I have not made any
21 attempt to absolutely memorize the content of
22 specific documents.

23 Q. Have you seen a document that defines the
24 mission of the Tobacco Institute?

1 03 25 A. I'm not positive if I've seen one that

17 3 1 defines specifically the mission of the Tobacco
2 Institute.

3 Q. Have you seen a document that describes
4 the committee organization of the Tobacco Institute?

11:03 5 A. I know I've seen things that refer to
6 organizational issues within the Tobacco Institute.
7 Whether or not that's committee structure, I'm not
8 certain.

9 Q. Have you seen any documents that describe
11:04 10 the regional, geographical regional divisions within
11 the Tobacco Institute?

12 A. I have not seen documents, but I have
13 seen references to such a division.

14 Q. What references would those have been?

11:04 15 A. Well, I believe in the depositions of
16 Nance and -- is it Reynolds for RJR? I'm not certain
17 of the other lobbyist there, but in the Nance
18 deposition, and I think in the Tom Reynolds
19 deposition, if I have his name correct, they refer
11:04 20 to, you know, regions. They refer to their RD, their
21 regional director. They refer to different kinds of
22 regional things.

23 So I'm not certain that I have seen a
24 document specifically from TI that says here are our
11 4 25 regions, here is how we do it, here is the theory

04 1 behind that. But I'm aware of the existence of
2 regions through references in depositions and other
3 materials.

11:05 4 Q. Have you seen any documents referencing
5 youth campaigns by the Tobacco Institute?

6 MR. NUNLEY: Objection as to form.

7 THE WITNESS: I'm not sure I would use
8 the word "campaign." I have seen references to age
9 and I've seen references to young people, you know,
11:05 10 old people, age groups. I believe the term "youth"
11 has been used.

12 BY MR. EVANS:

13 Q. Do you recall seeing documents from the
14 Tobacco Institute which identified a set of programs
11:05 15 as youth campaigns?

16 A. I don't recall specifically documents
17 saying that from TI, no, no. I don't recall that.

18 Q. Have you seen documents from the Tobacco
19 Institute that describe a program, the subject matter
11:06 20 of which is underage smoking?

21 A. There are certainly statements that have
22 come out concerning smoking, the ages at which people
23 begin smoking, statements to the effect that we
24 don't -- we being whoever the organization is, TI --
1 06 25 don't want to be associated with youth smoking.

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17 6 1 There are statements like that.

2 In terms of a specific campaign, in terms
3 of specific areas, I don't at this point recall
4 seeing those. That may be there, but I would have to
11:06 5 go back and look.

6 And it doesn't have to be right away but
7 within the next five minutes or so, if we could take
8 a break, whenever perhaps you're through with this
9 line of questioning.

11:07 10 Q. I will be happy to break in five minutes
11 or less.

12 A. Fine.

13 Q. Can you name for me a publication of the
14 Tobacco Institute that addresses the issue of youth
11:07 15 smoking or underage smoking?

16 A. No. I would not want to, you know,
17 attempt to remember specific publication names at
18 all, no.

19 Q. Have you reviewed any documents that
11:07 20 would indicate approximately what period of time the
21 Tobacco Institute was discussing youth or underage
22 smoking?

23 MR. NUNLEY: Objection as to form.

24 THE WITNESS: The specific references on
11 8 25 youth that I remember have more to do with British

7 08 1 American Tobacco, BAT, and I remember that that, I
2 believe, is a '70s period of time, when a specific ad
3 agency, I believe Canadian, I'm not positive, I
4 believe Canadian looks at certain kinds of aspects.
11:08 5 I think there's a great deal of question as to who
6 asked them to do that, what was done with that
7 material and so on.

8 BY MR. EVANS:

9 Q. Again, I do apologize, but my question is
11:08 10 regarding the Tobacco Institute.

11 A. Right. I don't remember, because as you
12 will recall, I said I don't remember specific
13 documents dealing with that, and so I'm purely
14 operating from another one. There very well may have
11:09 15 been something in there on that, but as I'm sitting
16 here right now and talking to you, I don't
17 specifically remember the document, and therefore, I
18 certainly don't remember the time period.

19 Q. And the last question before we break:
11:09 20 Have you seen any documents of or do you recall any
21 documents of the Tobacco Institute discussing the
22 success or failure of youth campaigns?

23 A. My answer would be the same as before.

24 Q. Which would be no?

1 09 25 A. That's correct.

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11:09 1 MR. EVANS: We'll take a break.
2 VIDEO OPERATOR: We're off the record at
3 11:09.
4 (Recess.).
11:26 5 VIDEO OPERATOR: We're back on the record
6 at 11:26. This is the beginning of videocassette
7 number 2.
8 BY MR. EVANS:
9 Q. Dr. Steinfatt, I'm going to give you
11:26 10 another document that I've marked Steinfatt Number
11 2.
12 (Steinfatt Exhibit 2 identified.)
13 BY MR. EVANS:
14 Q. This is the vitae provided to Plaintiffs'
11:26 15 counsel and it has a date on it of October 12, 1998.
16 Is this the accurate vitae as you recall presenting
17 to us, Dr. Steinfatt?
18 A. I'm looking through it, but give me a
19 moment just to make sure.
11:27 20 (Witness reviewed the document.)
21 Yes, that looks accurate.
22 Q. As I said, it is dated October 12, 1998,
23 but can you just confirm for me that it is up to date
24 in terms of your publications? Is there any
11:27 25 publication, recent publication, that is not

11:27 1 included?

2 A. In terms of publications, everything is
3 there, as far as I can see.

4 Q. Among the extensive list of publications
11:28 5 and articles, have any of them dealt with the tobacco
6 industry as a topic?

7 A. Not to my recollection, no.

8 Q. To your recollection, do you think that
9 you would recall?

11:28 10 A. No, I'm quite sure I would recall. That
11 is not to say that the words "tobacco" and "smoking"
12 are never mentioned, but they certainly don't deal
13 with that as a topic.

14 Q. I want to ask you for my own curiosity,
11:28 15 what is the prisoner's dilemma, Dr. Steinfatt?

16 A. Prisoner's dilemma is a form of a game
17 matrix, in which there are two people involved in the
18 game and the game is really an experimental device
19 within a laboratory. It's used to test how people
11:29 20 might react, given certain alternatives and another
21 person to interact with in a laboratory setting.

22 Prisoner's dilemma is one particular one
23 of those and it takes its name from a story that is
24 often given to people who are faced with this
11:29 25 particular numerical matrix which describes their

11:29 1 choices. I don't know if that does it for you
2 quickly or if you want a five-hour explanation. I
3 assume you'd rather have the 20-second one.

11:29 4 Q. I think probably you're right. Is it
5 anything like the problems I love where somebody
6 always tells the truth and somebody always lies?

11:29 7 A. Somewhat, but not really. Those are sort
8 of conundrum kinds of things. This is more
9 empirically that's see how people react in a
11:29 10 laboratory, to certain kind of reward matrices.

11 11 Q. I would like you to turn to the last page
12 of this, please, or excuse me, it's page 9. When we
13 were talking about inoculation theory, we talked
14 about studies of McGuire, but that's not the only
11:30 15 McGuire you've expressed expertise on, is it? I see
16 you were an expert commentator on ESPN on the
17 McGwire-Sosa home run derby and the rightful place of
18 baseball in American life.

11:30 19 Are you an expert on baseball,
20 Dr. Steinfatt?

21 A. Apparently some Miami stations think I
22 am. They labeled me that way, despite my
23 protestations otherwise.

11:30 24 Q. How about would you call yourself an
25 expert on the implications of holding the private sex

1 30 1 lives of individuals up to public scrutiny and
2 ridicule?

3 A. Well, I think within the purview of
4 political communication that I teach, I know
11:30 5 something about that. I do not propose that I know
6 about private sex lives, nor do I wish to know about
7 private sex lives, but I do know something about what
8 happens, I think, and some of the implications for
9 what happens when one begins discussing those things
11:31 10 in public.

11 Q. Did you approach the television stations
12 listed here to give expert commentary or did they
13 approach you?

14 A. I attempt to beat them off with a stick,
11:31 15 as a matter of fact. And just about -- recently they
16 have been calling a lot. I guess they like what I do
17 on camera, I don't know. But no, I never call a TV
18 station and offer to comment. The TV stations seek
19 my things and I try to not do it, but sometimes I'm
11:31 20 unsuccessful. You have a list of my failures.

21 MR. MIKHAIL: Beating someone with a
22 stick is a form of persuasion as opposed to --

23 THE WITNESS: I suppose. Coercion might
24 be the better term.

1 32 25 (Laughter.)

17 2 1 BY MR. EVANS:

2 Q. Dr. Steinfatt, is there any instance of
3 your television commentaries listed here that you
4 consider to be relevant to your opinions you're
11:32 5 expressing in this case?

6 A. Gee, I probably would have to look
7 through each of them. There's certainly nothing that
8 I have commented on that I can recall that had
9 specifically to do with tobacco. What I was starting
11:32 10 to look for -- you can tell me if you don't want me
11 to -- is it's very likely that someone has had to do
12 with persuasion, propaganda, that kind of thing. Do
13 you want me to look through to see that? I certainly
14 have not commented on tobacco on TV.

11:32 15 Q. That's fine, that's fine, Dr. Steinfatt.

16 (Steinfatt Exhibit 3 identified.)

17 BY MR. EVANS:

18 Q. I would next like to give you what I have
19 labeled Steinfatt Number 3, which is labeled "list of
11:33 20 opinions for Thomas Steinfatt, PhD." And I'll first
21 ask you if you recognize this document, sir.

22 A. Yes, this certainly appears to be my
23 document.

24 Q. Did you draft this document?

1. 3 25 A. Yes, I did.

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33 1 Q. In the version that appears here, is this
2 something you printed from your own computer?

3 A. No, I don't believe I printed this one on
4 my computer. I think we printed this one, I believe,
11:33 5 although I'm not sure I remember exactly when and
6 where this was printed, but no, anyway, this is not
7 one that I printed on my computer.

8 Q. How was it, in fact, physically
9 generated, do you recall?

11:33 10 A. I'm not absolutely positive when it was
11 generated. I know that I created the things for it.
12 The only thing that I'm blocking on is the state of
13 Oklahoma here, I believe this is very similar to what
14 we have used in other things. And I changed that,
11:34 15 I'm not sure when that version, after I changed that,
16 was particularly printed.

17 But the original document when I first
18 printed this up, you know, with the exception of
19 state of Oklahoma kind of thing, that was printed I
11:34 20 believe on my computer first and checked for errors
21 and I'm not sure exactly how I got that -- I probably
22 Fed Ex'd that. I'm not sure. I might have sent a
23 disk. The disk might have been -- I'm not sure.

24 Q. Isn't it true that the only change you
34 25 made in submitting this list of opinions for the

17 4 1 state of Oklahoma was in fact, as you just said, to
2 change where it says "state of" to read "state of
3 Oklahoma"?

4 A. Again, I would want to look at others but
11:35 5 that's the only one that -- I know that change was
6 made and that's sort of the obvious one. And I don't
7 recall any others but there might have been.

8 Q. Obviously, Dr. Steinfatt, this is one of
9 the main reasons we're here, is to go through this
11:35 10 list of opinions, and I am going to ask you to
11 comment on each one of them.

12 Number 1 states "communication
13 within/between employees of corporations known as
14 organizational communication is a form of discourse
11:35 15 which is critical to the operation, functioning and
16 improvement of any corporate entity." Have I
17 correctly read that?

18 A. I believe you've correctly read that.

19 Q. Define "critical" as you use it in this
11:35 20 sentence, please.

21 A. Sine qua non, without which nothing --
22 can't operate without it.

23 Q. Is this an opinion you reached
24 specifically based on your review of the materials
11:36 25 that we've discussed this morning, the material, your

1 36 1 reliance materials?

2 A. No, it is not.

3 Q. All right. Is this an opinion you held
4 prior to considering those materials?

11:36 5 A. Yes, it is.

6 Q. How does this stated opinion relate to
7 the subject matter of this lawsuit?

8 A. Well, to my knowledge, the lawsuit
9 concerns corporations, Philip Morris, other
11:36 10 corporations. They produce a product, and in so
11 doing, they have employees. The employees have to
12 communicate in a number of different ways in order
13 for the corporation to function, in order for any
14 organization to function. So what applies to any
11:37 15 organization clearly applies to the organizations
16 within this lawsuit.

17 Q. Are you aware of any opinion expressed by
18 any other expert in this case that would be in any
19 way contrary to your point number 1?

11:37 20 A. I'm not aware of any, no.

21 Q. Do you employ any particular methodology
22 at arriving at your opinions stated here?

23 MR. NUNLEY: Did you say "opinion"? Are
24 you asking beyond 1 or are you limiting it to 1?

1 37 25 BY MR. EVANS:

17:07 1 Q. Thank you. Let's limit it to number 1.
2 Are you using a particular methodology in arriving at
3 opinion number 1?

4 A. I think I can describe how I have arrived
11:38 5 at it. I don't think the word "methodology" would be
6 particularly appropriate. I have really arrived at
7 that as a function of my doctoral education
8 principally, and the articles that I have read, the
9 books that I have read in the area, and the, you
11:38 10 know, the research that I have conducted in that
11 area. So if that constitutes methodology, then so be
12 it. That's certainly at least the method or the
13 means by which I have come by that opinion.

14 Q. Opinion number 2, "in a democracy, the
11:38 15 way an organization functions is to allow, indeed
16 encourage, the expression of different points of view
17 on any issue of importance to the organization."
18 Have I correctly read the first sentence of this
19 opinion?

11:38 20 A. That is correct.

21 Q. Are industries or corporations -- strike
22 that.

23 Are corporations democracies,
24 Dr. Steinfatt?

1:09 25 A. Corporations in and of themselves are not

1 39 1 normally run in a democratic fashion.

2 Q. How does this first sentence of your
3 opinion relate to the issues in this lawsuit?

4 A. The first sentence of number 2?

11:39 5 Q. Yes.

6 A. I think you could only interpret it in
7 terms of probably the entire number 2 or in terms of
8 a larger set of opinions. It's saying to me -- I
9 hope, to you -- that organizations in a democracy,

11:39 10 not that the organizations themselves are democratic
11 but that the society is a democratic society. And in
12 a democratic society, we encourage the expression of
13 points of view. I think it's also pointing out some
14 things in the second sentence that relate to that but
11:40 15 in the first sentence, that's about as far as it
16 gets.

17 Q. Do organizations function differently in
18 countries that have forms of government other than
19 democracies?

11:40 20 A. This sentence does not necessarily imply
21 that.

22 Q. Do they?

23 A. You're asking a question now on the way
24 that international business functions. There are
1 40 25 some companies in some countries, to my knowledge,

11:00 1 that do indeed function quite differently than that,
2 yes.

3 Q. So you are making a distinction in
4 sentence 1 of point number 2 of the way organizations
11:41 5 work in a democracy as opposed to how they might work
6 in a nondemocratic country; is that correct?

7 A. In a nondemocratic country or simply in
8 countries other than the United States, I suppose.
9 It says "in a democracy," and the reference there, I
11:41 10 believe, is to the United States as a democracy,
11 although it does not state that in the first
12 sentence, it does in the second sentence. The intent
13 of the entire two sentences together is American.

14 I will simply tell you that yes, indeed,
11:41 15 there are countries, some of them partially
16 democratic, some of them clearly not democratic at
17 all, in which the function of communication within an
18 organization is considered quite differently than it
19 is in an American organization.

11:41 20 Q. The opinion continues, "American
21 organizations, including American businesses," and
22 let me pause right there. I believe in talking about
23 sentence 1, you said you meant American to mean the
24 United States; is that correct?

11:42 25 A. Yes. The term "American" is always one

1 42 1 of those, well, that could refer to North and South
2 America. Traditionally the term "America" and
3 "American" has been used by other peoples in other
4 countries to refer to the United States.

11:42 5 Q. Is that how you mean it in this sentence?

6 A. That's how I mean it in this sentence,
7 yes.

8 Q. All right. "American organizations,
9 including American businesses, function internally on
11:42 10 the basis of a 'marketplace of ideas.'" You have
11 that in quotation marks. Is that a phrase you take
12 from someplace else?

13 MR. NUNLEY: Just so the record is clear,
14 what's within quotation marks is "marketplace of
11:42 15 ideas."

16 MR. EVANS: Thank you.

17 THE WITNESS: Marketplace of ideas is an
18 idea that found often in terms of freedom of speech
19 kinds of ideas.

11:42 20 BY MR. EVANS:

21 Q. And the final sentence of point number 2,
22 "management is responsible for making ultimate
23 decisions of policy based on all expressed views."
24 How does that opinion relate to the issues in this
1 43 25 lawsuit?

17:13 1 MR. NUNLEY: Let me just -- I'm not going
2 to, obviously, prevent him from answering, but I
3 think how an opinion relates to issues and ultimately
4 whether it's relevant or not really is a legal issue
11:43 5 for the lawyers first and ultimately for a judge, but
6 you're welcome to ask him the question if you want
7 to. But I would object to the extent it calls for a
8 legal conclusion.

9 BY MR. EVANS:

11:43 10 Q. I will restate the question slightly.
11 How is this sentence, "management is responsible for
12 making ultimate decisions of policy based on all
13 expressed views," how is that sentence related to the
14 opinions you are expressing -- no, that's a non
15 sequitur.

16 MR. NUNLEY: That is an opinion.

17 BY MR. EVANS:

18 Q. Let me ask you this way: What, in your
19 review of the materials in preparing for your work as
11:44 20 an expert in this case, has led you to express the
21 opinion that "management is responsible for making
22 ultimate decisions of policy based on all expressed
23 views"?

24 A. Largely because that's the way
11:44 25 organizations, particularly manufacturing

44 1 organizations, work. Typically, what happens is that
2 within a particular unit or subunit, people will be
3 asked for their ideas. After a while, those ideas
4 will be closed off and management will, in fact, make
11:44 5 a decision, within views expressed by that unit.
6 It's not attempting to say all organizations are a
7 democracy.

8 Q. I asked you a series of questions earlier
9 about the Tobacco Institute and their structure.

11:45 10 Have you seen any documents that indicate the way the
11 Tobacco Institute makes ultimate decisions of policy?

12 A. Not directly, no. I know something about
13 their organization, but I have not seen documents
14 which say here is the way that we're going to
11:45 15 normally make decisions.

16 Q. Number 3, "internal company communication
17 often reflects views, opinions and/or attitudes which
18 differ from the position or behavior of official
19 representatives of corporate entities. This
11:46 20 difference does not mean, in and of itself, that a
21 given corporate entity is engaged in deceit, fraud,
22 misinformation or propaganda. Indeed, it reflects
23 the normal state of affairs for an organization."

24 Have I correctly read that opinion?

46 25 A. I believe you have correctly read that.

1 46 1 Q. In sentence number 2 of this opinion
2 point, the difference between internal company
3 communication and the behavior of official
4 representatives, you say it "does not mean in and of
11:46 5 itself that a given corporate entity has engaged in
6 deceit."

7 Well, does that mean one could not
8 determine whether or not an organization was engaged
9 in deceit based on this difference between internal
11:47 10 communication and behavior of official
11 representatives?

12 MR. NUNLEY: Objection as to form.

13 THE WITNESS: It would depend very much
14 on the individual case. You would need to look at
11:47 15 specifically what documents were there. You would
16 need to see exactly how they related to each other,
17 you would need to see exactly what they said.

18 I think the paragraph says very
19 specifically that, if you have a difference of
11:47 20 opinions or if you have a difference of stated
21 position, differences of opinion and differences of
22 stated position are quite common in organizations.
23 They don't indicate anything other than the most
24 common form of communication within an organization.
1 47 25 That's all I'm trying to say there.

11:47 7 1 BY MR. EVANS:

2 Q. Okay. And then sentence there, "indeed
3 it" -- and by "it," we mean a difference in an
4 internal company communication of a position; is that
11:47 5 correct?

6 A. That is correct, I believe, as I read the
7 sentence, yes.

8 Q. "Indeed it reflects the normal state of
9 affairs for an organization." Would that third
11:48 10 sentence be true, that it reflects the normal state
11 of affairs for an organization that was engaged in
12 deceit, fraud, misinformation and one that is not
13 engaged in deceit, fraud and misinformation?

14 MR. NUNLEY: Objection; compound.

11:48 15 THE WITNESS: I think the only way I can
16 answer that is by saying that organizations, as I
17 said earlier -- I guess I would go back really to my
18 earlier answer -- organizations engage in play of
19 views between people in certain specified areas who
11:48 20 have been hired to know what they're doing in those
21 certain specified areas. Within those areas there's
22 a give-and-take. That has absolutely nothing to do
23 with whether an organization is engaged in any form
24 of misbehavior.

1 8 25 BY MR. EVANS:

49 1 Q. And are there particular documents you've
2 reviewed in connection with your preparation for this
3 case that led you to this opinion?

4 A. No.

11:49 5 Q. Is this an opinion you held prior to any
6 investigation of the tobacco industry?

7 A. Yes.

8 Q. And there's nothing you've reviewed that
9 has changed your opinion on this, one way or the
11:49 10 other, in your review of materials in preparation for
11 this case?

12 A. That's an accurate statement, yes.

13 Q. Number 4, "it is poor social science to
14 attribute the opinions or acts of one person or even
11:49 15 one entity to an entire group or industry."

16 When you say "it is poor social science,"
17 I'm not sure what you mean. Is it social science in
18 any way to attribute the opinions? Is that a social
19 science investigation?

11:50 20 MR. NUNLEY: Objection as to form.

21 THE WITNESS: There have been studies
22 which have been done, which are in the literature, in
23 the social science literature, in which exactly that
24 kind of thing has been done. Ask one person about an
25 action, ask another person about an attitude. Note

17:50 1 that the two are not the same, and then say gee,
2 that's funny, why aren't the two the same or why
3 aren't they related? Those have been criticized very
4 heavily in the literature for doing exactly that.

11:50 5 BY MR. EVANS:

6 Q. Does it matter who the one person or one
7 entity in your sentence is in judging whether the
8 opinions can be attributed to an entire group or
9 industry?

11:51 10 MR. NUNLEY: Objection as to form.

11 THE WITNESS: I think I would need a more
12 specific example than that. I would say in general,
13 no, but I would need a specific example, I think.

14 BY MR. EVANS:

11:51 15 Q. Is it poor social science to attribute
16 the opinions or acts of a CEO to the company of which
17 he is CEO?

18 A. It might.

19 Q. In what circumstances might it?

11:51 20 A. Suppose you have a rump CEO or a rump
21 president who is going off on his own and is about to
22 be dismissed -- might be one case -- or might not
23 even be dismissed but someone who is speaking out of
24 turn. Those cases do occur. So simply knowing that
17:51 25 somebody is a CEO, is speaking in his official

51 1 position or her official position for a particular
2 corporation, does not by itself absolutely guarantee
3 that that's a representation of that organization's
4 point of view.

11:52 5 Q. So there may be circumstances where the
6 official position of an organization is not, in fact,
7 the position; is that correct?

8 MR. NUNLEY: Objection. Jerry, I don't
9 know, do you mean to say that the opinion of the rump
11:52 10 CEO -- I don't know what your antecedent is for the
11 official opinion.

12 MR. EVANS: Well, I was borrowing the
13 phrase from Dr. Steinfatt's previous answer.

14 BY MR. EVANS:

11:52 15 Q. And I believe -- and I don't want to
16 mischaracterize your testimony at all, but I believe
17 you said that a rump CEO giving an official position
18 for a company might not be attributable to the entire
19 company?

11:52 20 A. Perhaps I said -- and I'm not sure if I
21 did say -- official position. Let's say that what I
22 should have said and the way that I would prefer to
23 say that is that, if a CEO or any member of any
24 organization issues a statement, we're not always
25 certain that the organization is going to be set up

17 3 1 in such a way that it agrees that A, the person had
2 the right to make that statement under those
3 circumstances; B, that they were in a position of
4 knowledge which could have allowed them to do that.

11:53 5 While normally CEOs do not behave in that
6 way, it is quite possible that they could, and they
7 have certainly been known to behave in that way.

8 When I say "they have not normally," there are clear
9 instances recorded where CEOs have behaved in a way
11:53 10 that has not represented their company.

11 Q. How would the general public know whether
12 or not the rump CEO was speaking on behalf of the
13 company or not?

14 A. That might be a difficult judgment, and
11:54 15 then it also might be a case where, depending on what
16 was being said, might make it obvious.

17 Q. Is it poor social science to attribute
18 the opinions or acts of someone with the title
19 "spokesman" to the entire group of which she is
11:54 20 spokesperson?

21 A. I believe that was clear, but I think I
22 need to hear that again. Could we have that read
23 back?

24 (The reporter read the record as requested.)

1 4 25 MR. NUNLEY: Should be spokeswoman.

54

1

BY MR. EVANS:

2

Q. I mixed genders too often in that question, but I hope you understand it.

4

11:55

5

A. I think I do. Normally if someone is the spokesperson for someone else, that person, on pain of either losing their job or certainly receiving some sanctions, would normally be, if they were in the proper position, speaking for an organization. By "proper position," I mean if a press conference had been called, if the person is out there, saying this is the official position of the company, we are now passing out this official position, yet it still can be misunderstood.

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11:55

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Because for example, suppose in the state of Oklahoma, someone for the governor's office says here is the official position of the governor of the state of Oklahoma, and somebody just across the line in Texas reads this and says oh, here's what the Texas governor thinks. Well, that may have nothing to do with it, the person has misread it.

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11:55

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People can misread those kinds of things. And occasionally, and not that infrequently, what you get is people citing the governor of Texas, let's say -- pure hypothetical -- as having said something or agreeing with something that the person

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1' 56 1 hasn't even considered, isn't even part of their
2 thing, rather this is something coming out of the
3 Oklahoma governor's office. And it's very easy to
4 group together all the governors, that they think
11:56 5 alike or all the companies they think alike, or all
6 this or that. You have to be very careful who that
7 spokesman is speaking for.

8 Q. Are there any particular documents in
9 your review of materials in preparation for your
11:56 10 testimony here that support this opinion, point
11 number 4?

12 A. Are you asking specifically within the
13 context of preparations with respect to tobacco and
14 smoking?

11:56 15 Q. I am indeed.

16 A. I think it's fully supported. Outside of
17 that, I'm not sure there's really something that's
18 influenced my opinion on that one way or another
19 within tobacco.

11:57 20 Q. I'll ask the same question that I asked
21 you about number 1. Are there particular
22 methodologies you have used to arrive at opinion
23 point number 4?

24 A. Well, simply, again, education and the
1 57 25 logic of research, which dictates that you need to

57 1 draw lines between person A and person B, between
2 entity 1 and entity 2, in saying that what holds with
3 one may or may not hold with the other, or what one
4 says, the other may not, so that type of methodology,
11:57 5 yes. Even though there are instances in the social
6 science literature in which those lines are not
7 clearly drawn and which those are mixed, those are
8 also -- while that has occurred, it's often been
9 criticized when it does occur.

11:58 10 Q. You're not a legal expert, are you,
11 Dr. Steinfatt?

12 A. No, I am not.

13 Q. And you're not a psychology expert?

14 A. My PhD involved quite a number of courses
11:58 15 in psychology, but I am not a licensed psychologist
16 in any fashion, no.

17 Q. And you're not putting yourself forward
18 as an expert in psychology in this case?

19 A. In social psychology, as it relates to
11:58 20 communication, but certainly not in clinical
21 psychology, learning psychology, those branches of
22 psychology, but social psychology and communication
23 are very highly related, and in social psychology,
24 yes.

1 58 25 Q. So to say that it is poor social science

1 8 1 to attribute the opinions or acts of one person to an
2 entire group or industry is not to say that there
3 might not be other disciplines in which one can
4 attribute the opinions or acts of one person to an
11:58 5 entire group, is it?

6 MR. NUNLEY: Objection as to form.

7 THE WITNESS: There might be some. I
8 don't know.

9 BY MR. EVANS:

11:59 10 Q. Number 5, "propaganda involves the
11 subversion of rational thought processes by
12 preventing or strongly discouraging independent
13 thought about the opposing position. Messages that
14 allow for, tolerate or encourage other positions are
11:59 15 not propaganda, but rather education or
16 information."

17 Have I read that correctly,
18 Dr. Steinfatt?

19 A. I believe you read that correctly, yes.

11:59 20 Q. Am I correct that sentence number 3 says
21 that propaganda and education are exclusive things,
22 that what is propaganda is not education and vice
23 versa?

24 MR. NUNLEY: What are you referring to
1. 0 25 when you say "sentence 3"?

00 1 MR. EVANS: I'm sorry, I'm not counting
2 very well. Sentence 2 of point number 5.

3 BY MR. EVANS:

4 Q. "Messages that allow for, tolerate or
12:00 5 encourage other positions are not propaganda but
6 rather education." Strike my previous question,
7 which was very confusing.

8 A. Sure.

9 Q. Can there be propagandistic education, or
12:00 10 are they mutually exclusive?

11 A. Well, propaganda occurs, under the
12 definition that I have provided for, there are
13 certain things that need subversion to rational
14 thought. Education can mean several different
12:00 15 things. It could mean an educational system, for
16 example, or it could mean simply a series of messages
17 that someone labels education, which are in fact not
18 education, but which in fact meet all the criteria of
19 propaganda.

12:01 20 So rather than try to contrast education
21 and propaganda here, I think what I would do is say
22 let's look -- the way that I would do it, let's look
23 and see if something meets the tests of propaganda.
24 If it meets those tests, whether anyone has labeled
1 01 25 it as education, information, whatever, then in fact,

1 01 1 it's propaganda.

2 Q. And not education?

3 A. I suppose that would call for a specific
4 definition of "education." I'm not sure I want to
12:01 5 offer such a definition here.

6 Q. Is sentence 1 of point number 5, is that
7 your definition of "propaganda"? The reason I ask is
8 because it's worded "propaganda involves," and then
9 you complete the sentence.

12:01 10 A. Yes.

11 Q. But is that your definition of
12 propaganda?

13 A. Well, not that alone, but those are
14 certainly some of the conditions that are involved in
12:02 15 propaganda. It involves the subversion of rational
16 thought. It tries to prevent or discourage
17 independent thought about opposing conditions.
18 That's not the only thing that propaganda does, as we
19 can see by looking down through items 6, 7, 8, those
12:02 20 kinds of things.

21 Q. Can you give me your definition of the
22 word "propaganda"?

23 A. I believe that propaganda involves a
24 largely fear-based, one-sided campaign, and that,
1. 02 25 with a fear-based, one-sided campaign, the goals of

02 1 that campaign are normally to subvert rational
2 thought, and that, in the service of those goals,
3 there is a strong control of information sources and
4 information channels.

12:03 5 Q. Is that a definition that is shared by
6 other people, other academicians in your field?

7 A. You get propaganda defined in many, many
8 different ways. Whether there are other specific
9 individuals who would define it in exactly that way,

12:03 10 I'm not absolutely positive on. What I would say is
11 that I think that most people who have studied
12 propaganda would, in general, agree that those are
13 characteristics of propaganda. There are some who
14 specifically would not.

12:03 15 Q. Can you cite for me a scholar in the
16 field of propaganda whose definition you disagree
17 with?

18 A. Yes, Alex Edelstein.

19 Q. I'm sorry, say that again?

12:03 20 A. Alex Edelstein.

21 MR. NUNLEY: This is unfair to do because
22 you're on camera but if you can keep your hands away
23 from your mouth, I --

24 THE WITNESS: I'm sorry, no, that's fine,

1 04 25 I didn't notice I was doing it.

1 04 1 MR. NUNLEY: It would be clear for the
2 reporter.

3 BY MR. EVANS:

4 Q. Can you give me Mr. Edelstein's
12:04 5 definition of "propaganda"?

6 A. I'm not sure I can give you a specific
7 one because largely Mr. Edelstein doesn't offer one
8 and that is what I find objectionable. Mr. Edelstein
9 considers everything propaganda. Advertising,
12:04 10 propaganda. Our speaking here, propaganda. Talking
11 about going to the moon, propaganda. Everything is
12 propaganda.

13 I disagree with that position, but I
14 don't believe he offers a specific definition of it.
12:04 15 He simply talks around the point.

16 Q. How does your opinion point number 5
17 relate to the tobacco industry, Dr. Steinfatt?

18 MR. NUNLEY: Objection as to form.

19 THE WITNESS: I believe it relates to it
12:05 20 in the same way that it relates to any organization,
21 any individual, any attempt to discover if some
22 particular campaign is a propaganda campaign or not.
23 No differently than with any other situation where
24 you're looking at propaganda, or the lack thereof.

25 BY MR. EVANS:

05 1 Q. Point number 6, "propaganda is based on
2 and grounded in people's fears, not on positive
3 emotions or motives." And I believe you spoke about
4 that, when I asked you to give a definition. In your
12:06 5 definition of "propaganda," is it always based on
6 people's fears?

7 A. There is always something fear-based
8 within the campaign.

9 Q. So by your definition, there could not be
12:06 10 a propaganda campaign that focused on positive
11 emotions, like a propaganda campaign to just make
12 people feel happy about some event?

13 A. If that's probably all it did, no, we've
14 never seen a propaganda campaign that looks like
12:06 15 that. Propaganda campaigns typically will have happy
16 messages in them at some point, but there will be a
17 very strong element of fear, of negativity, within
18 that campaign. There's an attack on something.

19 Q. But it would be possible to put forth a
12:07 20 campaign of persuasion about something to cast it in
21 a positive light, would it not, that would not be
22 based on people's fears?

23 A. Now, you're asking me to contrast
24 persuasion with propaganda now? I'm not sure -- can
1 07 25 you repeat the question or --

12:07 1 Q. Well, I'll ask it this way: Can you
2 think of an example of a campaign of persuasion to
3 put something in a positive light that is not based
4 on fear?

12:07 5 A. Yes, I can.

6 Q. But that would not fit into your
7 definition of propaganda; is that correct?

8 A. Normally it would not. The point on fear
9 is an empirical point. I've simply never seen a
12:08 10 campaign that could rationally, reasonably be
11 described as a propaganda campaign that doesn't have
12 a fairly strong fear element in it.

13 MR. EVANS: I would like to break for
14 lunch, if no one objects to that.

12:08 15 MR. NUNLEY: Great, sure.

16 THE WITNESS: You are a mind reader.

17 VIDEO OPERATOR: We're off the record at
18 12:08.

19 (Whereupon, at 12:08 p.m., the deposition
20 was recessed, to be reconvened at 1:15 p.m. this same
21 day.)

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25

1 AFTERNOON SESSION (1:22 p.m.)

2 Whereupon,

3 THOMAS M. STEINFATT

4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as follows:

6 VIDEO OPERATOR: We're back on the record
7 at 1:22.

8 EXAMINATION (Continued)

9 BY MR. EVANS:

13:22 10 Q. Welcome back, Dr. Steinfatt. I hope you
11 had a good lunch.

12 A. Indeed.

13 Q. Good. Do you anticipate testifying in
14 the Engle case that I believe has just gotten
13:22 15 underway?

16 A. I know that there is a possibility that I
17 might. Beyond that, I really don't know.

18 Q. It's not been communicated to you as you
19 sit here?

13:23 20 A. No, it has not been.

21 Q. I would like to return to your list of
22 opinions, if I could. When we left, we were talking
23 about number 6 and we established, I believe, that
24 under your definition of "propaganda," propaganda is
1 23 25 based on and grounded in people's fears; is that

A. WILLIAM ROBERTS, JR., & ASSOCIATES

1 correct?

2 A. That is correct.

3 Q. Would that include a message that people
4 should fear something and also a message that people
13:23 5 should not fear something?

6 MR. NUNLEY: Objection; compound.

7 THE WITNESS: Normally what it includes
8 is some component in which the people involved, the
9 people who are the targets of the campaign, have
13:24 10 fears, and those fears are normally assessed and used
11 in the campaign by the propagandist.

12 BY MR. EVANS:

13 Q. Would a message to those people that says
14 you should not fear something in particular, would
13:24 15 that fit into your definition as propaganda?

16 A. It's possible that it could. I don't
17 think that's the way it is normally used and I'm not
18 sure I can come up with an example of it. So it's
19 also possible it couldn't. I can't rule it out
13:24 20 without seeing, I guess, a specific example. But it
21 isn't the normal case.

22 Q. A message to the public that -- or to any
23 person, a message to a person that they should not
24 fear a particular thing, that would be a message
1. 24 25 based on or grounded in people's fears, would it not?

25 1 A. Not in the sense intended here. It
2 certainly is a message about fears, but propaganda
3 typically takes fears and expands on them and
4 utilizes them. For example, a fear that might be
13:25 5 used in the case of Goebbels is a fear that the
6 international Jewish bankers are taking over. And
7 while I suppose you could argue, couldn't you have a
8 propaganda campaign which says, well, you need
9 nothing to fear from people who are Jewish, that
13:25 10 would not be based in those fears in the sense
11 intended here.

12 Q. I want you to distinguish that a little
13 more for me. Why is that not in the same sense that
14 you mean it here?

13:25 15 A. Well, because propaganda, when it occurs,
16 usually is something which has a goal. And many
17 things are used in the service of that goal. One of
18 the things used in the service of that goal are
19 people's fears. Normally, it would be exceptionally
13:26 20 difficult to take people's fears, in the sense used
21 here, things that are deep-seated fears, very often
22 very irrational, and yet things that people believe
23 to be true and are fearful of, perhaps people are
24 afraid of the dark and there's no reason to be afraid
25 of the dark.

1 16 1 But it would be very difficult to take a
2 campaign based on you shouldn't be afraid of the
3 dark, when people are, in fact, afraid of the dark,
4 and use that as part of the campaign. The idea is,
13:26 5 take something that's easy to work with, which is
6 people's fears, and which we know has strong
7 motivational things for people, and then use those.
8 That's why I'm saying I wouldn't absolutely rule it
9 out but I can't think of an instance in which that's
13:26 10 been the case.

11 Q. Well, let me give you an example, and I
12 mean this as a hypothetical example. Suppose a
13 manufacturing company made a product, suppose
14 information went before the public that this product
13:27 15 was dangerous, and then the manufacturer responded
16 with a message, no, it's not necessarily dangerous.
17 Would that be based on, grounded on people's fears?

18 A. It would certainly not seem to be, in the
19 sense that it's discussed here, in the sense that one
13:27 20 normally sees a propaganda campaign. That would not
21 normally be the case. I can imagine a manufacturer
22 doing that, but I can't see that as the type of thing
23 that normally goes on in a propaganda campaign.

24 Q. So -- and it would not fit your
1 17 25 definition of propaganda?

27 1 A. It doesn't go within not only my
2 definition of propaganda, but propaganda as it's
3 normally experienced and as it's normally labeled.
4 It just doesn't usually do that.

13:28 5 Q. Is there a distinction between your
6 definition of propaganda and propaganda as it is
7 normally labeled?

8 A. No. I would like to think that there is
9 not a distinction there, although as we have said,
13:28 10 there are people who disagree about definitions.

11 Q. Would it be propaganda under your
12 definition for the Surgeon General or another public
13 health authority to tell people that tobacco is
14 dangerous, you should be afraid of it?

13:28 15 A. Not necessarily. There are five elements
16 there, and you would want to look at all of those
17 five elements. It would have to be being based on
18 irrational fears, for example, and an attempt to
19 subvert rational processes. If such a campaign,
13:28 20 whoever conducted it, was done in such a way to
21 subvert rational processes, it was totally one-sided
22 and meets the other criteria there, then you can say
23 well, you've got an initial case that perhaps that is
24 what's going on, and you could examine it for it.

29 25 But not as you've presented it, no, I wouldn't think

1 '9 1 that would be propaganda, no.

2 Q. You've given us a nice segue into your
3 next couple of points. I'm sorry, let me back up.
4 Point number 6, can you give me a specific example of
13:29 5 how your opinion point number 6 relates to the
6 tobacco industry?

7 A. Well, again, this is an opinion that I've
8 formed, you know, based on my education, based on my
9 study, and it's an opinion that I had well before
13:30 10 even considering anything related to smoking and
11 health or tobacco.

12 On the other hand, I do believe it
13 applies in the same sense that it applies to any
14 other propaganda campaign. It applies, if there are
13:30 15 allegations that there is one, you want that as part
16 of the definition to be examining that.

17 So no special application, if I'm
18 responding to what I think you're asking me, but
19 definitely the same general application as anywhere
13:30 20 else.

21 Q. You stated that this is an opinion you
22 had formed prior to your investigation of tobacco
23 issues?

24 A. Yes, that's correct.

1: 0 25 Q. Is there anything in your investigation

1 30 1 of tobacco issues that caused you to alter that
2 opinion or modify it?

3 A. No, there is nothing in that -- that has
4 done that, no.

13:30 5 Q. Okay. Point number 7, if we can, "the
6 survey and experimental methods of social science can
7 be used to generally measure the effects of
8 propaganda." Have I correctly read that?

9 A. I believe you have correctly read that.

13:31 10 Q. Define for me "the survey methods of
11 social science."

12 A. Survey methods generally are methods
13 which examine existing attitudes on the parts of
14 individuals, how do they feel on questions of public
13:31 15 interest, how do they feel about a particular
16 candidate. There are questions which go out and
17 examine what already is, among the public. I think
18 that answers that.

19 Q. And can you define for me "experimental
13:31 20 methods of social science"?

21 A. Yes. An experimental method is a method
22 which manipulates at least one independent variable,
23 that is by "manipulate," what we mean is that the
24 experimenter has control over that variable, directly
1 31 25 by manipulation.

15:01 1 For example, if we were going to study
2 ability to take notes under light conditions, rather
3 than simply observe natural changes in light, which
4 might look a bit more like a survey type method,
13:32 5 although that's not exactly the meaning, in an
6 experimental method, one would go to the light switch
7 and would flip the light switch off, as a
8 manipulation, something under the control of the
9 experimenter.

13:32 10 Q. All right. I'm going to return to point
11 7 after I talk about 8, because in point 8, you talk
12 about how one measures the existence of propaganda
13 and you listed five things, so I would like to take
14 them one by one.

13:32 15 Point 8(a), you say "to measure the
16 existence of propaganda, one must determine the
17 degree of control of information sources
18 participating in the media; i.e., was the alleged
19 propagandist in relatively complete control of all of
13:32 20 the information."

21 Let me pause there and ask you to define
22 "relatively complete control of all of the
23 information."

24 A. "Relatively complete" would have to mean
1. 23 25 that the propagandist controls information to the

33 1 point that, effectively, no other point of view can
2 get out. Not that there aren't other people, not
3 that there isn't someone who screams or occasionally
4 attempts to write a letter to the editor, says no,
13:33 5 this isn't right, but effectively all other points of
6 views are silenced.

7 It's not that it is absolutely
8 necessarily total, but effectively total. It's got
9 to be awfully close, you know, to a pretty good
13:33 10 control of that information.

11 Q. Is it possible to quantify that, how much
12 control?

13 MR. NUNLEY: Objection. I think he just
14 did that.

13:33 15 THE WITNESS: I think beyond that, it's
16 going to be rather hard to do it. One certainly
17 can't do it quantitatively like with a percentage or
18 something like that, 40 percent, 90 percent, no, you
19 can't do that.

13:34 20 BY MR. EVANS:

21 Q. The sentence continues: "As the degree
22 of information control decreases, the alleged
23 propaganda becomes just another message in the
24 information mix."

34 25 Are you saying that, when we reach the

17 4 1 level where the message becomes just another message
2 in the information mix, that it can no longer be
3 defined as propaganda?

4 A. Yes, I believe that's the intent of that,
13:34 5 yes.

6 Q. Okay. In your survey of materials, your
7 study of the materials that you're relying on today,
8 have you undertaken to determine the degree of
9 control of information sources participating in the
13:34 10 media?

11 A. Yes, I have.

12 Q. And can you tell me what determination --
13 what conclusion you've reached?

14 A. Well, I could give a very long answer to
13:35 15 that. I think the brief answer to that is that there
16 has been information available in almost every
17 channel of -- in fact, strike the "almost" -- in
18 every channel of information available to the public,
19 which indicates that smoking is a very dangerous
13:35 20 activity. Prior to, say, some -- well, let's not
21 even get into dates. The nature of that information
22 has varied, clearly, over the years, but going back a
23 very long way, that information has been out there.

24 Given the fact that that side is
13:35 25 represented, and of course, the fact that it's argued

13:35 1 by some people and has been argued, you know, smoking
2 is not or may not be a health hazard, putting all of
3 those things together, it would be very hard to make
4 a case in any direction that there was a

13:36 5 propagandistic style information campaign going on.

6 Q. Now, who has presented the message that
7 smoking may not be harmful?

8 A. Well, a number of people have done that.
9 There are a number of scientists who have suggested
13:36 10 that. It's come out in advertisements sponsored by
11 various tobacco companies. It's been stated in
12 articles separate from those simply summarizing the
13 views that are held.

14 You can get summaries of articles and
13:36 15 summaries of things for school children, which will
16 sometimes say well, here is one side of the issue,
17 here is the other side of the issue. So you can get
18 it in supposedly balanced presentations. You can get
19 it in arguments coming in advertisements. You can
13:36 20 get it in statements, public statements by
21 scientists.

22 Q. I believe the answer you gave me may be
23 more responsive to point 8(b), but let me make sure
24 I'm correct on that. Point 8(a) determined the
13:37 25 degree of control of information sources

12:37 1 participating in the media.

2 Now, let me ask you specifically, have
3 you undertaken a study of the degree of control of
4 information sources exercised by tobacco companies?

13:37 5 A. Yes, I have.

6 Q. And I hope I'm not repeating the last
7 question, but can you tell me your conclusion based
8 on your study of that degree of control of
9 information?

13:37 10 A. Yes, I believe that there has been no
11 control of information sources in the media by
12 tobacco companies.

13 Q. Now let's go to point 8(b), again, "to
14 measure the existence of propaganda, one must survey
15 available channels of information." Let me pause
16 here and say: Have you undertaken a survey of
17 available channels of information regarding smoking
18 and health?

19 A. Yes, I have.

13:38 20 Q. And can you tell me your conclusions
21 based on that survey?

22 MR. NUNLEY: As to what? Conclusions as
23 to what?

24 BY MR. EVANS:

1. 38 25 Q. Your conclusions -- can you tell me what

1 38 1 information that gives you regarding the measure of
2 the existence of propaganda?

3 A. I'm not sure that I can do that. Am I
4 being asked what are the available channels of
13:38 5 information? That I think I can respond to. Or am I
6 being asked something more or different than that?

7 Q. Let me try again. Position 8(b) states
8 "to measure the existence of propaganda, one must
9 survey available channels of information."

13:39 10 Now, you said that you have surveyed
11 available channels of information regarding smoking
12 and health.

13 A. That's correct.

14 Q. Can you tell me what you have learned
13:39 15 from your survey of those available channels of
16 information?

17 A. Well, if the question is specifically
18 restricted to that, I could simply tell you what the
19 available channels of information are, so --

13:39 20 Q. I think I understand. The stumbling
21 block is that we need to go through the end of point
22 8(b).

23 A. Maybe that's it.

24 Q. "Survey" -- again, I'm reading from point
1 39 25 8(b). "Survey available channels of information and

1' 9 1 within each survey, available sources of information,
2 and for each source, examine the credibility of that
3 source relative to other sources."

4 A. Yes.

13:40 5 Q. You have told me that you have indeed
6 surveyed available channels of information. Have
7 you, sir, within those channels, surveyed available
8 sources of information regarding smoking and health?

9 A. Yes.

13:40 10 Q. Have you, sir, for each source, examined
11 the credibility of that source relative to other
12 sources?

13 A. Yes, I have.

14 Q. And what conclusions have you reached as
13:40 15 a result of going through those three steps?

16 A. Well, generally people do not pay
17 attention to what tobacco companies say. They are
18 not considered terribly good sources of information.
19 When a tobacco company speaks and says this is true,
13:40 20 people tend to take that with a very large grain of
21 salt.

22 Q. Do you have an opinion as to why?

23 A. I think there are probably a number of
24 different factors involved in that, some of which are
1: 11 25 common to almost every company. Partly because, for

41 1 example, if an automobile industry speaks, let's say,
2 or a member of that industry, a company within the
3 industry speaks, a spokesman for that company, and
4 makes a statement which appears to be self-serving to
13:41 5 that company, most people would take that with, as
6 they say, a grain of salt. They would say well, that
7 person, that institution, is speaking purely in a way
8 to benefit themselves, let me go and look at things
9 outside of that.

13:41 10 People don't put a lot of credibility
11 when they see a paid endorsement by a movie star, for
12 example. It doesn't mean they don't pay attention to
13 it, but in terms of the belief that the movie star
14 believes what he or she is saying, people will tend
13:42 15 to set that aside.

16 Q. Do you consider the Surgeon General to be
17 a credible source of information?

18 A. For --

19 MR. NUNLEY: Let me just object. Do you
13:42 20 want to make a time frame or individual Surgeon
21 General? Do you mean all Surgeon Generals at all
22 times on all topics?

23 BY MR. EVANS:

24 Q. Since I have not thus far in the
25 42 questions restricted the time frame when we're

1' 2 1 talking about the tobacco industry's credibility, I
2 will not do so now. Just in general, statements of
3 the Surgeon General, do you regard those as
4 credible?

13:42 5 MR. NUNLEY: Objection to form.

6 THE WITNESS: I think the problem is a
7 question of whether do I regard the Surgeon General
8 as credible, or do I see people as regarding the
9 Surgeon General as credible.

13:42 10 BY MR. EVANS:

11 Q. That is the question I meant to ask.

12 A. The second?

13 Q. The second.

14 A. The second, right. The people in general

13:43 15 seem to respect the offices and administrators of the
16 United States government, and the Surgeon General is
17 one of those. So without reference to a particular
18 Surgeon General, the office of the Surgeon General,

19 when that speaks, I think people understand that that

13:43 20 office does not speak off the cuff and that it does
21 not speak, you know, in a way that is designed
22 purposely to influence someone's -- the money that's
23 in someone's pocket. So I think that people in
24 general believe it when the office of the Surgeon
1. '3 25 General speaks.

1 43 1 Q. Can you point me to anything that you
2 studied in connection with the materials you studied
3 for this case on which you base that determination,
4 that the office of the Surgeon General is generally
13:43 5 given credibility?

6 A. Yes. Two particular things come to
7 mind. There may be others, but one, there are
8 articles in newspapers which consistently refer to
9 people believing the position of the Surgeon
13:44 10 General.

11 There are also, if you do a survey of
12 something like The Daily Oklahoman, you can look at
13 the number of press releases that are put out, let's
14 say, by something like Tobacco Institute, by
13:44 15 individual tobacco companies, you can look at the
16 number of press releases that are put out perhaps by
17 the Attorney General -- excuse me, Surgeon General's
18 office or by some group which is -- let's say, the
19 American Cancer Society, some group which is of the
13:44 20 opinion that smoking is very dangerous to health.

21 You can then look simply in what appears
22 to be the opinions of the editors who decide what's
23 going to go into the newspaper, and you can see that
24 the vast majority of articles are along the line that
1 45 25 smoking is very dangerous to your health, and when

17 '5 1 those kinds of statements are made, they almost
2 always appear in the newspaper.

3 They certainly don't always appear, but
4 they often appear, whereas when statements are made,
13:45 5 well, perhaps there is a problem here, maybe there is
6 a controversy, if that's a paid advertisement, it
7 appears. If that's simply an opinion, if that's a
8 statement, if it's put out at a press conference,
9 very often that does not appear.

13:45 10 Q. So do you believe -- is it your opinion
11 that the frequency with which an opinion appears is
12 some indication of its credibility?

13 A. It appears to be an indication of its
14 credibility first with journalists, meaning both
13:46 15 reporters and editors. Once it has entered their
16 credibility sphere, let us say, since they are
17 gatekeepers, and since part of what influences
18 people's opinions is the number of times they see a
19 particular position represented, and there are
13:46 20 estimates of how many other people hold that
21 position, then indeed that influences public opinion.

22 Q. Let's look at 8(c). "To measure the
23 existence of propaganda, one must observe messages
24 from the campaign in question through a nonbiased
1: '6 25 process; i.e., by obtaining the population of

1 46 1 messages or some random sample of messages."

2 In your measurement of the existence of
3 propaganda campaign in the context of tobacco, have
4 you obtained the population of messages or some
13:47 5 random sample of messages?

6 MR. NUNLEY: Objection as to form.

7 THE WITNESS: It would not be possible to
8 obtain the population of messages. It is possible to
9 obtain samples of those messages. It's much harder
13:47 10 to obtain a random sample of messages, because
11 without enumerating the population or having some
12 good idea of what the population is, it's very hard
13 to know if you actually have a random sample or some
14 form of a biased sample. So in looking at the entire
13:47 15 campaign, I cannot say that I have a random sample of
16 messages.

17 BY MR. EVANS:

18 Q. And you said that it's impossible to
19 determine -- to survey the population of messages?

13:47 20 A. It would be exceptionally difficult. It
21 might be impossible, I don't know. But if it isn't
22 impossible, it's close to it.

23 Q. So you have not, in your own studies, put
24 8(c) to the test, you have not been able to measure
1 48 25 the existence of propaganda by complying with 8(c);

17 18 1 correct?

2 A. No, not directly through a random sample
3 or through a population, that's accurate.

4 Q. And that is an essential requirement, in
13:48 5 your opinion, of measuring the existence of
6 propaganda?

7 A. If someone is going to allege that
8 propaganda has occurred, they must show it in some
9 way. One way would be to take all the messages, the
13:48 10 population. Another way would be to take a random
11 sample or some other method, if there is one, of
12 finding a good random sample. On the other hand --
13 well, no, I think that's enough.

14 Q. Let's go on to 8(d). "To measure the
13:48 15 existence of propaganda, one must determine whether
16 the information in the campaign was systematically
17 selected, such that one side is made to appear
18 absolutely correct and the other absolutely
19 incorrect."

13:49 20 Have you, sir, made a determination
21 whether the tobacco industry has conducted a campaign
22 of information such that one side is made to appear
23 absolutely correct and the other absolutely
24 incorrect?

1. 19 25 A. Yes, I believe I have.

13:49 1 Q. And can you tell me your conclusions
2 based on that?

3 A. Yes. I don't believe that the -- well, I
4 don't want to say the tobacco industry. I don't
13:49 5 believe that any element of tobacco, meaning Tobacco
6 Institute, individual companies, people who work for
7 them, whatever, have attempted to make a case that
8 there is only one side to the issue.

9 Q. So you believe they have not attempted to
13:50 10 make one side appear absolutely correct and the other
11 absolutely incorrect, is that your testimony?

12 A. That is my testimony.

13 Q. And then the last point in opinion number
14 8, "to measure the existence of propaganda, one must
13:50 15 determine whether the alleged propaganda was
16 fear-based."

17 Again, talking about your study of
18 materials related to tobacco industry, have you made
19 a determination on whether any alleged propaganda was
13:50 20 fear-based?

21 A. Yes, I have.

22 Q. And what have you concluded?

23 A. Well, I've concluded that it is not
24 fear-based.

13:51 25 Q. Now, as I understand opinion paragraph 8,

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1? 51 1 unless one has carried out these five determinations,
2 one cannot measure the existence of propaganda; is
3 that correct?

4 A. Well, that's correct, with one possible
13:51 5 caveat. On (c), while it is not possible to obtain
6 the entire population of messages and it's not
7 possible to obtain a true random sample, by sampling
8 everything that's available that you could get, and
9 looking at, say, every newspaper article that
13:51 10 appears, one can approximate such a study. One
11 cannot do it absolutely, but one can approximate a
12 good study in that form.

13 To do it perfectly, you would need the
14 population or something that is shown to be really
13:52 15 representative. But by doing a very large N study --
16 that is, N meaning something approaching the size of
17 the populace -- you can get awfully close.

18 Q. Do you believe you have done sufficient
19 observation under point (c) to get awfully close, in
13:52 20 your words?

21 A. Well, I have looked at all of the
22 articles which have appeared in The Daily Oklahoman
23 relating to tobacco, smoking, smoking and health.
24 That alone, without looking at a number of other
1. 52 25 kinds of things, at least let's one know what was

52 1 available within that channel. That is, The Daily
2 Oklahoman is one example of the media. It certainly
3 does not look at other media within just that
4 statement.

13:52 5 However, within that particular channel,
6 having surveyed all of those, surveyed that
7 population completely within that particular channel,
8 I can certainly make the statement that, within that
9 channel, it is not propaganda campaign.

13:53 10 Q. Can you cite to me any other authority
11 that lists these five criteria for measuring the
12 existence of propaganda?

13 A. Typically, if you read the literature,
14 people treat propaganda in two different ways. They
13:53 15 simply use the term and say this particular campaign
16 is a propaganda campaign, I'm not going to talk about
17 it, or they talk about ways of measuring or actually
18 measure the effectiveness of persuasion or
19 propaganda, or perhaps what they do is they go about
13:53 20 measuring the effectiveness of persuasion or various
21 persuasive devices.

22 One flaw in the literature, in my
23 opinion, is that you can't have propaganda if you
24 don't have -- that is, you can't have -- let me back
1 54 25 up.

15 4 1 You can't have an effect of propaganda if
2 you don't have propaganda first. It's called
3 "demonstrating the existence of the independent
4 variable." And while that point, demonstrating the
13:54 5 existence of the independent variable, is very clear
6 in research literature, and it will be backed up all
7 over the place in research literature, it has not
8 been applied, in my opinion, in propaganda analysis.

9 So as a very long answer to your point,
13:54 10 no, you will not find that printed elsewhere, but it
11 is backed up in what I believe to be the best
12 tradition of social science, as you must demonstrate
13 the existence of something before you can talk about
14 its possible effects.

13:54 15 Q. But the answer is no, you cannot cite to
16 another authority that lists these five criteria as
17 you have put them forth; correct?

18 A. I know of absolutely no other authority
19 who lists them.

13:55 20 Q. Well, Dr. Steinfatt, doesn't that put
21 forth a definition of propaganda that's rather
22 difficult to meet?

23 A. I don't believe so.

24 Q. Can you give me an example of a
1 5 25 propaganda campaign, the existence of which could be

55 1 measured by the five criteria you've listed here?

2 A. One example would be the Nazi propaganda
3 campaign in Germany.

4 Q. Who has undertaken the five
13:55 5 determinations you've listed here and applied it to
6 the propaganda campaign in Nazi Germany?

7 A. I have done that.

8 Q. Can you give me another example?

9 A. I have not taken these and specifically
13:56 10 applied it to others. On the other hand, there are a
11 number of very good candidates where I couldn't tell
12 you, without applying it ahead of time, whether I
13 would come to the conclusion yes, this is a
14 propaganda campaign or not, but certainly a number of
13:56 15 other instances that seem to have the hallmark for
16 that.

17 Q. When you were discussing point 8(c), you
18 talked about the -- and we were talking about tobacco
19 particularly, you talked about the impossibility or
13:56 20 near impossibility of obtaining the population of
21 messages and the difficulty of terming some random
22 sample of messages; is that correct?

23 A. I'm sorry, I'm nodding. Yes, the answer
24 is yes.

1 56 25 Q. And then you did modify that somewhat and

1' 7 1 say that, in your opinion, you had done a close
2 approximation of that; is that correct?

3 A. I believe that's correct, yes.

4 Q. When measuring the Nazi Germany
13:57 5 propaganda campaign, did you similarly have to make
6 somewhat of a compromise on the strictures of 8(c)?

7 MR. NUNLEY: Objection as to form;
8 argumentative.

9 THE WITNESS: I would think that, in most
13:57 10 propaganda campaigns, most researchers would not be
11 privy to the entire set of messages, and so then
12 there's always a question of what is the appropriate
13 set of messages. Therefore, what one does is you use
14 all of those which are available to you. And while
13:57 15 that's never as good as the entire set, if the entire
16 set doesn't exist, that's about as well as you can
17 do.

18 And if the entire set that's available
19 suggests something, and if there is no good reason,
13:58 20 and no one is suggesting in any way that messages
21 were destroyed or altered or changed from that set
22 that you have, and that there is no difference of
23 those from the ones that you're not only to obtain,
24 essentially, then you probably have a pretty good
1' 8 25 basis for making a decision.

MR. EVANS: Excuse me just a moment.

(Pause.)

BY MR. EVANS:

Q. In point 8(d), in applying it to the propaganda campaign of Nazi Germany, did you determine that the information was systematically selected such that one side was made to appear absolutely correct and the other absolutely incorrect?

A. Yes, I did.

Q. Did you find that the propaganda campaign of Nazi Germany met that criteria?

A. Yes.

Q. Can you give me an example?

A. If you read either the available propaganda releases of the German government at that time from the Ministry of Information, or if you look at the posters set up by the Ministry of Information, or if you read Goebbels's diaries, or if you look at any source whatever, it's very clear that there is no representation of even the possibility that the Nazi side is incorrect. That's one of the clear cases that, you know, yes, there was no information given that any other view existed other than that view.

Q. Let me ask you again because I didn't get

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14:00 1 an exact answer to it. Can you name for me any
2 example other than the campaign of Nazi Germany that
3 would meet your five criteria listed here in number
4 8?

14:00 5 A. Well, in order to know if one is going to
6 meet the criteria, what you would have to do is
7 actually engage in the study. And since I have not
8 actually engaged in the study, I cannot name another
9 instance. That does not mean, however, if I may go
14:00 10 beyond that, that there are not such other
11 instances. I'm confident that there are quite a
12 number of them, but I have not actually applied those
13 criteria to find them.

14 14 Q. If you're confident that there are quite
14:00 15 a number of them, can you, in your expertise,
16 speculate an example that may very well fit your five
17 criteria?

18 MR. NUNLEY: Objection; speculation. Go
19 ahead.

14:01 20 THE WITNESS: Given that it is
21 speculation, and that I might find otherwise if I
22 looked, I would give you one example. Within a
23 sensitivity training period, there is a group called
24 Erhard sensitivity training. The way their group
1. 1 25 operates appears to be a propaganda style.

3 01 1 Again, I would not want to say that for
2 the record until I actually did the study, but it has
3 many of the hallmarks that suggest that. Certain
4 things with the operation of Reverend Sun Myung Moon,
14:01 5 for example, would appear to attempt that. I doubt
6 that they would meet all the criteria.

7 There are certain corporations in the
8 United States other than involved in the production
9 of tobacco in which, if you looked at the way that
14:01 10 they have apparently attempted to control
11 information, basing part of what their reasons for
12 doing it on fear and other things, it's certainly,
13 again initially on the outside, without doing the
14 study, appears that it might be a good candidate for
14:02 15 that.

16 Q. But you said, the example of Reverend
17 Moon and the est movement, you said it's doubtful
18 that they would meet the criteria; is that correct?

19 A. No.

14:02 20 MR. NUNLEY: Objection. That's not what
21 he said.

22 THE WITNESS: I don't believe that is
23 what I said. With Reverend Moon, I'm not sure --
24 well, with Reverend Moon, it depends on what you mean
1 02 25 by his campaign. If you take it within the framework

14:02 1 of people committed to his organization, within that
2 framework, then it might very well be a propaganda
3 campaign.

4 If you look at it in the context of the
14:02 5 broader society, no, probably not, but again, those
6 are off-the-top-of-the-head judgments as opposed to
7 looking at it.

8 Within est, again, within people who are
9 members of their seminars and during the time that
14:03 10 they are members of their seminars, the message
11 control and information control and the physical
12 control of the people certainly has a strong
13 suggestion of propagandistic flavor to it.

14 BY MR. EVANS:

14:03 15 Q. When you were analyzing these five
16 criteria as they're --

17 MR. NUNLEY: It's the Bat Phone. Hello?

18 UNIDENTIFIED SPEAKER: Yes, I'm sorry.

19 MR. MIKHAIL: We are too.

14:03 20 BY MR. EVANS:

21 Q. Now I need a minute to think of what I
22 was going to ask.

23 A. That's fine.

24 MR. EVANS: Could I ask you to read back
14:04 25 the last question that I began?

1 (The reporter read the record as requested.)

2 MR. EVANS: I'll come back to this.

3 MR. NUNLEY: Do you want to take a
4 break? Or whatever.

14:04 5 MR. EVANS: Actually, I would like to
6 take a brief break. Thank you.

7 VIDEO OPERATOR: We're off the record at
8 2:04.

9 (Recess.)

14:15 10 VIDEO OPERATOR: We're back on the record
11 at 2:15.

12 BY MR. EVANS:

13 Q. Dr. Steinfatt, would you agree with the
14 statement that a definition of propaganda should not
14:16 15 use unqualified statements?

16 MR. NUNLEY: Objection as to form.

17 THE WITNESS: I don't know what that
18 means without a specific example.

19 BY MR. EVANS:

14:16 20 Q. Haven't you criticized the definition of
21 propaganda by, and I may mispronounce this, Ellul?

22 A. Ellul, yes.

23 Q. Haven't you criticized his definitions of
24 propaganda as using unqualified statements that leave
1. 16 25 little room for fitting things into the definition?

14:16 1 A. I would have to look at that particular
2 article, but that sounds like something I might well
3 say. I would want to look at that to see if that's
4 specifically what I said with reference to Ellul.

14:17 5 MR. NUNLEY: Is that Manny Alou?

6 MR. EVANS: I don't know Mr. Ellul's
7 first name, actually.

8 THE WITNESS: Jacques.

9 BY MR. EVANS:

14:17 10 Q. Do you recall making the statement that
11 an unqualified definition of propaganda narrows the
12 scope of propaganda to the point that it is an
13 essentially empty class of phenomena?

14 A. Ah, in that sense, unqualified, again I
14:17 15 don't have it in front of me, but that sounds very
16 close to what I said, and certainly what I'm arguing
17 is you can't simply define propaganda in such a way
18 that there is no propaganda.

19 Q. Thank you.

14:17 20 A. Not to have a useful term in the
21 category.

22 Q. Now that we have covered opinion point
23 number 8, I would like to go to opinion point number
24 7. "The survey and experimental methods of social
14:18 25 science can be used to generally measure the effects

18 1 of propaganda." Having concluded that the tobacco
2 industry or tobacco companies have not engaged in a
3 propaganda campaign, did you make any attempt to
4 measure the effects of the alleged campaign?

14:18 5 A. Well, in order to do that, again, one
6 would have to do a fairly good either experimental
7 study or scientific survey of some form. I have
8 certainly not done an experimental study, nor have I
9 done a scientific survey of the people of Oklahoma.
14:18 10 The other option there, I suppose, would be to look
11 at, again, what is represented in the beliefs of the
12 people of Oklahoma in terms of how the newspaper,
13 Newsweek, Time in references to Oklahoma refer to the
14 people of Oklahoma's beliefs and things like that.
14:19 15 To that extent, one could get an idea.

16 But the point would be that, if there is
17 no propaganda, there can be no propaganda effect.
18 And so any effect that you found would not be a
19 propaganda effect. It might be an advertising
14:19 20 effect, it might be some other kind of communication
21 effect, but it would not be a propaganda effect,
22 unless you can demonstrate that propaganda existed.
23 Q. So under your definition, there is no
24 need to do a measure of the effects of propaganda;
25 correct?

1/ 9 1 MR. NUNLEY: Objection as to form;
2 argumentative.

3 THE WITNESS: I'm not sure if it's a
4 matter of need. It's a matter of if one did it, one
14:19 5 could not conclude thereby that something which did
6 not exist had caused an effect. I think it's more of
7 a logical problem involved.

8 BY MR. EVANS:

9 Q. So whatever effects you may have measured
14:20 10 as a result of, for example, advertising, under your
11 definition, that's simply not an effect of
12 propaganda; correct?

13 A. Unless one has something present that one
14 knows exists in some form, you cannot say that that
14:20 15 something caused something else. One of the criteria
16 for cause -- and I do not like dealing with it at
17 all, it's a very tricky matter -- but one of the
18 criteria is that something has to exist and has to
19 occur prior in time to something else. I don't think
14:20 20 we've got that here.

21 Q. Let's move on to opinion point number 9.
22 "There is no credible social scientific evidence
23 that the Tobacco Industry engaged in a propaganda
24 campaign regarding the potential health effects
1- 1 25 and/or 'addictiveness' of smoking."

21 1 The first thing I would like to ask you,
2 Dr. Steinfatt, is what do you mean when you use the
3 term "tobacco industry?"

14:21 4 A. Well, I use that in a very kind of
5 generic sense. I don't particularly like the term
6 "tobacco industry." I use it because other people
7 use it. When I think of the industry, I'm thinking,
8 very specifically, of the individual units of that
9 industry that make it up. That is, I don't think an
14:21 10 industry acts or is capable of acting. On the other
11 hand, certain individuals from Philip Morris could
12 act, certain individuals from the Tobacco Institute
13 could certainly act, one could represent Philip
14 Morris or the Tobacco Institute respectively when
14:22 15 they do act.

16 What I'm talking about by tobacco
17 industry is a general term. When we look at it with
18 specifics -- probably should be looked at very
19 specifically to the industry -- the actors, the
14:22 20 people who are actually doing things.

21 Q. When you say there's no evidence that the
22 tobacco industry engaged in whatever, you're not
23 saying that that's because there is no such thing as
24 the tobacco industry?

22 25 A. Your statement is correct, yes. I am not

1 2 1 trying to say well, the tobacco industry didn't do
2 it, because there isn't any such thing as the tobacco
3 industry, and therefore it couldn't. I think we
4 might argue as to whether there is or isn't. But
14:22 5 regardless of the outcome of that particular
6 argument, no, I am certainly not arguing it on the
7 basis that you're suggesting.

8 Q. You state that "there is no credible
9 social scientific evidence." Could there be other
14:23 10 types of evidence that the tobacco industry engaged
11 in a propaganda campaign?

12 A. Not, in my opinion, which would be
13 credible. You could have allegations. You could
14 have people who say they did it. You could have
14:23 15 someone who studies Shakespeare's poetry, saying it
16 looks like propaganda to me, but not in this form of
17 credible evidence, no.

18 Q. Let me make sure that we're not taking
19 this sentence apart in different ways. Are you
14:24 20 saying that there's no type of evidence other than
21 social scientific that could reveal whether or not
22 the tobacco industry engaged in a propaganda
23 campaign?

24 A. I'm not aware of any. It might depend on
1 24 25 definitions of terms and what was regarded social

1 24 1 scientific and not. If you want to give me an
2 example of some particular type of evidence, I'd be
3 more than happy to give you my opinion on it.

4 But as I sit here today and think of
14:24 5 this, it seems like it's quite a reasonable sentence,
6 and I don't think there's, you know, a particular
7 hidden meaning there. It's just I don't think
8 there's credible social scientific evidence, and I
9 personally cannot think of evidence other than social
14:24 10 scientific evidence which would be convincing in this
11 fashion on that particular topic.

12 Q. Thank you. And that was my point. I
13 wanted to make sure in your previous answer that I
14 was talking about the social scientific evidence, and
14:25 15 I thought perhaps you were focusing on the word
16 "credible," but your second answer clarifies that
17 for me.

18 A. All right.

19 Q. Well, it's your opinion that the tobacco
14:25 20 industry has not engaged in a propaganda campaign
21 regarding the potential health effects of smoking;
22 correct?

23 A. That's correct.

24 Q. Could something shy of a propaganda
1 25 25 campaign, something that fails to meet your criteria

14:25 1 for a propaganda campaign, still be deceitful?

2 A. One certainly can lie without engaging in
3 a full propaganda campaign, if that's your point.

4 Q. Yes. Could it be misleading and still be
14:25 5 shy of propaganda?

6 A. Well, again, remember, when we're talking
7 about propaganda, we're talking about an entire
8 campaign. And it seems to me that you're asking me
9 to contrast -- perhaps you are and I'm not sure if
14:26 10 you are -- to contrast an individual message from,
11 perhaps, an individual person with an entire campaign
12 of an entire group of people.

13 Q. Let me --

14 A. I'm not sure that the comparison is a
14:26 15 very good comparison.

16 Q. Let me clarify. Within a campaign of
17 information that fails to meet your criteria for
18 propaganda, could there not be individual instances
19 of misleading statements?

14:26 20 A. There could be individual instances of
21 misleading statements that appear anywhere at any
22 time. I mean, people do make misleading statements.
23 And an analysis for whether communication is
24 misleading would be somewhat different than an
14:26 25 analysis of whether communication is propaganda.

26 1 Q. Could you describe an entire campaign of
2 information that falls shy of your definition of
3 propaganda that could be called in its entirety
4 misleading?

14:27 5 A. I probably could. I'm not sure I would
6 want to come up with one right on the spot, but I'm
7 sure that one could be done.

8 Q. You're sure that one could fit within
9 that definition?

14:27 10 A. Oh, yes, I'm certain that you could find
11 a misleading -- I'm sure that those do occur,
12 certainly.

13 Q. Moving on to point number 10, "Even if it
14 could be properly alleged that the Tobacco Industry
14:27 15 engaged in a propaganda campaign, which in my opinion
16 it has not, this campaign could not have been
17 successful in light of the longstanding and
18 widespread awareness of the American public of the
19 potential health effects and/or 'addictiveness' of
14:27 20 smoking from innumerable, credible sources of
21 information."

22 Have I read that sentence correctly?

23 A. I believe you have.

24 MR. NUNLEY: And just for the record,
28 25 "addictiveness" is in quotations as it was in number

14:28 1 9.

2 MR. EVANS: Yes.

3 BY MR. EVANS:

4 Q. On what do you base your opinion that
14:28 5 there has been a "longstanding and widespread
6 awareness of the American public of the potential
7 health effects" of smoking?

8 MR. NUNLEY: You mean -- shouldn't we
9 read the rest of number 10?

14:28 10 BY MR. EVANS:

11 Q. I certainly do not object to reading the
12 rest of number 10. We're talking about "innumerable,
13 credible sources of information," and the next
14 sentence of number 10 reads "These sources include,
14:28 15 but are not limited to, newspapers, magazines,
16 periodicals, pamphlets, books, television
17 entertainment and news programs, movies, cartoons,
18 music, slang, humor, textbooks adopted by the State
19 of Oklahoma and around the nation, state and other
14:29 20 local and national organizations and religious and
21 not-for-profit health organizations and the Federal
22 and State governments."

23 Have I read that correctly?

24 A. I believe you have.

1-29 25 Q. I need a drink of coffee now. I will

14:29 1 repeat my question. On what do you base your opinion
2 that there has been a "long-standing and widespread
3 awareness of the American public of the potential
4 health effects" of smoking?

14:29 5 A. Well, on basically all of the things that
6 are listed there under item 10, from surveys of
7 newspapers, magazines, periodicals, pamphlets, books,
8 television, entertainment, et cetera, that's down
9 there. In addition to that, historical knowledge of

14:29 10 the fact that, well before even the popularization of
11 television, for example, and before the 1950s, before
12 World War II, before World War I, there were very
13 strong movements to ban tobacco. I can't imagine
14 that such movements could have taken place in the
14:30 15 absence of, you know, fairly strong beliefs and
16 feelings and information about tobacco.

17 In fact, we know that they didn't take
18 place without such information. We have examples of
19 the various handouts from back around the turn of the
14:30 20 century.

21 Q. But you've testified earlier, you're not
22 an expert in history?

23 A. That's correct.

24 Q. Do you believe any expertise in history
14:30 25 is needed to assess the long-standing and widespread

14:30 1 awareness of the American public of the potential
2 health effects of smoking?

3 A. No, that can only be a personal opinion,
4 because I'm not an expert on history. An expert on
14:30 5 history might well say no, you do need to be an
6 expert on history. But in my personal opinion, the
7 massive amount of information out there, from the
8 files of Henry Ford and The Dearborn Independent, and
9 from Ford's refusal to hire people who would -- you
14:31 10 know, who would smoke, from all of the state actions
11 which attempted to -- in fact, did outlaw smoking,
12 you know, it seems to me, as they say, a no-brainer
13 that you don't need to be an expert in history in
14 order to read history on that point. You might on
14:31 15 some fine point.

16 Now, I might very well be wrong, I might
17 be contradicted on it by an expert on history on
18 that.

19 Q. But in putting forth your opinion, you
14:31 20 feel comfortable stating that there has been
21 long-standing and widespread awareness of the
22 American public of the potential health effects of
23 smoking?

24 A. And I do it also on the basis of my own
1-31 25 personal knowledge of that. I'm old enough to sort

31 1 of be part of history. I can remember it as a child.

2 Q. In the innumerable sources of
3 information, do you include information publicly
4 disseminated by the tobacco industry?

14:32 5 A. Let me see if I understand that. Can you
6 give me the first part of that again?

7 Q. In the innumerable sources of
8 information, would you include information publicly
9 disseminated by the tobacco industry?

14:32 10 A. Yes, I would.

11 Q. If I expand that to say innumerable,
12 credible sources of information, would you include
13 information publicly disseminated by the tobacco
14 industry?

14:32 15 A. And again, let's stipulate that when we
16 say "industry," we're using a shorthand for specific
17 companies and individuals and so on. But you're
18 asking me now do I believe that the information that
19 they disseminated was credible, is that what the
14:32 20 question is?

21 Q. Well, I'll be very honest with you. I
22 simply left out the word "credible" when I first read
23 it, and I wanted to make sure that there was not
24 being a distinction made.

1 32 25 A. I see, I see. No, I don't think I'm

1 1 making a distinction, with the exception that some
2 sources are more credible than others. And as I
3 pointed out, many times from many people, the
4 information that comes from tobacco companies has not
14:33 5 been regarded as terribly highly credible. But no, I
6 was not making any distinction --

7 Q. And that would certainly be -- it would
8 be true that -- there are certainly instances where
9 movies, cartoons, music, slang in certain instances
14:33 10 might be credible or less credible?

11 A. There are certainly variations in
12 credibility, yes.

13 Q. The last thing I want to talk about on
14 this point, by saying this campaign could not have
14:34 15 been successful, you are not just stating that the
16 campaign failed to meet its goals, whatever they
17 were, but that, in fact, it would not have been
18 possible for such a campaign to be successful; is
19 that correct assessment of your opinion?

14:34 20 A. Since one of the -- yes, it would violate
21 one of the criteria of the control of information, so
22 in that sense, it could not, exactly as you're
23 saying, have been successful, yes.

24 Q. And number 11, under opinion points,
1 25 "Neither the 'Frank statement'" -- and "Frank

7 34 1 statement" is in quotation marks -- "nor other
2 industry statements, nor industry advertising could
3 inoculate the public against the anti-smoking message
4 because there was already widespread awareness of the
14:35 5 American public of the potential health effects
6 and/or," in quotation marks the word,
7 "'addictiveness' of smoking from innumerable,
8 credible sources of information."

9 Have I read that correctly?

14:35 10 A. You have read that correctly.

11 Q. What is the Frank statement?

12 A. The Frank statement is a one-page
13 advertisement, paid advertisement, which appeared in
14 a very large number of American newspapers on one day
14:35 15 in early 1954; I don't know the exact date.

16 Q. What did it say, in general terms?

17 A. In general terms, it said that --

18 MR. NUNLEY: Objection as to form.

19 THE WITNESS: From what I recall of it,
14:35 20 it says that its principal purpose is to announce the
21 formation of what I believe is the TIRC, Tobacco
22 Industry Research Committee, I think is what it is.
23 And that the reason it's going to announce this TIRC
24 is because smoking and health, the issue has been
J 36 25 certainly raised, and tobacco companies in general

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1. 6 1 are going to fund research through this organization
2 that's being announced, and to disseminate the
3 results of this research to the public. That's sort
4 of the essence of it.

14:36 5 BY MR. EVANS:

6 Q. Is rhetorical criticism a type of social
7 science?

8 A. I don't regard it as such.

9 Q. I apologize, that was a little off the
14:37 10 topic of point number 11.

11 A. No problem.

12 Q. Returning to point number 11, we have the
13 word "inoculate," which we discussed at some length
14 earlier this morning. Can you explain to me the way
14:37 15 your opinion applies to the conduct of the tobacco
16 industry in saying that they could not inoculate the
17 public against the antismoking message? If you could
18 just give me a fuller explanation of that, please.

19 A. Well, in the sense that it's used here,
14:38 20 it means essentially that the Frank statement was not
21 capable of producing a resistance to persuasion
22 effect through certainly what we have discussed as a
23 truism kind of method, since the idea is that the
24 information is already out there and is of
1. 38 25 long-standing duration, that smoking causes health

1 38 1 problems.

2 Given that the information is out there
3 that smoking causes health problems, the statement is
4 you can't take this message or a message and simply
14:38 5 inoculate people against the other effect. What you
6 can do is you can try to create some kind of
7 resistance, but according to what we know about it,
8 it looks like that's not going to be very successful.

9 Q. It seems to me there is a chronological
14:38 10 component of your inoculation theory, that you're
11 saying because the information -- the widespread
12 awareness of the American public of the potential
13 health effects of cigarettes already existed, that
14 the tobacco industry could do nothing to inoculate
14:39 15 the public.

16 Am I correct about that chronology
17 aspect?

18 A. Well, I think you've misstated slightly
19 what I said. You said could do nothing about
14:39 20 inoculating. I think some effects are possible, but
21 in terms of any major inoculation effect of the type
22 that you might see in a truism issue kind of
23 situation, I don't think that that's possible, and
24 specifically for the reason that you suggest, which
1 39 25 is the idea that the opposing information is out

14:39 1 there.

2 So clearly, it is not a truism issue that
3 we're talking about. It is a debated or again an
4 issue on which there is information on both sides,
14:39 5 which is readily available and out there.

6 Q. But the tobacco industry could put out
7 information that would have an impact upon public
8 awareness or make some change in public opinion.
9 That could happen, and not violate your opinion point
14:40 10 number 11; correct, because it wouldn't fall into
11 your definition of "inoculate"?

12 MR. NUNLEY: Objection as to form.

13 THE WITNESS: Well, not all persuasion
14 occurs as a form of resistance to persuasion or
14:40 15 inoculation. Here what the statement is talking
16 about, and I believe what your question is asking, is
17 about this term, "inoculate," which implies a
18 resistance to persuasion and that's essentially what
19 number 11 is talking about. So I think I've answered
14:40 20 the question there. I could go on and talk about
21 direct persuasion, but I think I've answered the
22 question there.

23 BY MR. EVANS:

24 Q. Do you consider yourself an expert on
1- '0 25 advertising?

J 41 1 A. I have taught courses on advertising, and
2 I look at advertising within the context of
3 organizational communication. To that extent, I am
4 an expert on that part of advertising. I do not
14:41 5 consult in the area of advertising, where I do in
6 organizational communication. But one can't study
7 organizational communication without, in some way,
8 studying and being an expert on advertising. So to
9 that extent from that perspective, yes.

14:41 10 Q. Have you undertaken any studying
11 particularly of tobacco advertising?

12 A. Well, yes, in that exact same general
13 sense that I'm talking about, both from the
14 organizational communication sense and from the
14:41 15 propaganda/persuasion sense. I have a very good
16 sense of what tobacco advertising looks like in
17 Oklahoma from 1950 through just about the present in
18 terms of what's present within The Daily Oklahoman.

19 In addition to that, I'm also familiar
14:42 20 with national sources of advertising, which were
21 available to people in Oklahoma and which appeared in
22 Oklahoma. I'm also familiar with what appeared on
23 television and on radio that was broadcast
24 nationally, including relaying to stations within
1 42 25 Oklahoma and then rebroadcast within Oklahoma.

14:42 1 So I think I have a very, very thorough
2 grasp on the specifics of what actually appeared as
3 advertising. That's what I'm referring to.

4 If you were asking me other things, I
14:42 5 might be a little less knowledgeable. But in terms
6 of that, I have a very strong knowledge of what's
7 appeared in terms of advertisements in smoking and
8 tobacco.

9 Q. Have you read the petition that the state
14:43 10 of Oklahoma filed to commence this lawsuit?

11 A. No, I have not.

12 Q. So you have no knowledge of the use of
13 the word "propaganda" within that petition?

14 A. No, I do not.

14:43 15 Q. Do you, in your expertise, have a
16 definition of "counterpropaganda," or is that a term
17 you recognize, and can you define it for me?

18 A. It's not a term I use particularly, but
19 it's a term that does exist in the literature.

14:43 20 Q. What meaning does it have for you?

21 A. Well, counterpropaganda is usually a term
22 that's used in specific instances of a particular
23 propaganda campaign. And when a particular -- you
24 know, when a particular message comes out that's part
1 13 25 of a propaganda campaign, somebody may refer to a

1 43 1 message which is sent out to counter or to be against
2 that specific message or series of messages, as
3 counterpropaganda.

4 That does not mean that counterpropaganda
14:44 5 meets the tests of propaganda. It simply means that
6 it's a label placed on something, which is to say,
7 you know, you could just as well call it X and Y and
8 Z. It's called counterpropaganda, not because the
9 things that are going out there are, in fact,
14:44 10 propaganda, but it is something sent out normally to
11 counter what is regarded as, without test,
12 propaganda.

13 Q. In your expertise in propaganda and your
14 review of the materials in preparing for the opinions
14:44 15 you're stating here today, can you cite a particular
16 instance where you've seen the tobacco industry refer
17 to propaganda or use the term "propaganda" in its
18 documents?

19 MR. NUNLEY: Objection as to form.

14:44 20 THE WITNESS: Again, I don't think there
21 are any documents written, as we say, by the tobacco
22 industry, but they're written by individuals with
23 connections to particular companies, which might
24 include TI. I'm sure that I have seen the word
1 45 25 "propaganda" in there a number of times. Whether

14:45 1 that has been written by employees of a particular
2 tobacco company or Tobacco Institute, I'm not
3 absolutely positive and would need to go back and
4 look.

14:45 5 BY MR. EVANS:

6 Q. But even though propaganda is your
7 particular area of expertise, you don't recall a
8 specific instance of the industry, or a
9 representative of the industry, using the term?

14:45 10 A. It seems to me that there probably is,
11 but I would not be able right now to say oh, yes,
12 that's in the memo by X to Y on such-and-such a
13 date. I know I've seen the term. I can't tell you,
14 right at the moment, in which document.

14:46 15 MR. EVANS: I would like to take another
16 very brief break.

17 VIDEO OPERATOR: We're off the record at
18 2:46. This is the end of videocassette number 2.

19 (Recess.)

14:58 20 VIDEO OPERATOR: We're back on the record
21 at 2:58. This is the beginning of videocassette
22 number 3.

23 BY MR. EVANS:

24 Q. Dr. Steinfatt, I really just have a few
14:58 25 more things to cover. We've gone through the 11

58 1 numbered points on your list of opinions. Are there
2 any additional opinions you plan to offer in this
3 case?

14:58 4 A. Everything I plan to offer is related to
5 that list of opinions.

6 Q. You mentioned, in our last session when I
7 asked you about your expertise in advertising, that
8 you had conducted some sort of study of advertising
9 and its effects in Oklahoma; is that correct?

14:58 10 A. Yes, I believe that's correct.

11 Q. Can you describe for me that study that
12 you conducted?

13 A. Yes. That's principally the work with
14 The Daily Oklahoman, and the national magazines,
14:59 15 which are available in Oklahoma, the national
16 television broadcasts which are received in Oklahoma,
17 radio broadcasts which are received in Oklahoma, all
18 of the various media outlets that are received in
19 Oklahoma.

14:59 20 Q. Was this just a review of what was there,
21 or did you have some sort of methodological approach?

22 A. Well, that is, by itself, a
23 methodological approach, but what the -- what was
24 being sought there was which advertising occurs,
? 59 25 what's appearing, you know, what is it exactly that

1 '9 1 people are seeing and is this tobacco advertising?
2 Where is this advertising originating, that is who is
3 sponsoring it, so on.

4 Q. Did this study result in any sort of
14:59 5 written product?

6 A. No, it has not.

7 Q. Would you describe this as a formal study
8 that you undertook?

9 A. I guess I would want to know what you
15:00 10 mean by "formal."

11 Q. Well, I really want to know, in your
12 field of expertise, would you regard it as a formal
13 academic study?

14 A. I would in the sense that, if I wished to
15:00 15 take this material, this information, write it down
16 and put it in publishable form, I would certainly
17 have a study which I could submit for publication.
18 The decision is not up to me as to whether it would
19 be published, but I think it would certainly
15:00 20 constitute a publishable study. In that sense of
21 formal, yes.

22 Q. Have you reviewed any documents written
23 by any person within the tobacco industry which
24 discusses the success or failure of a public
1 '1 25 relations campaign?

J 01 1 A. I believe that there are documents that I
2 have looked at which talk about, you know, both
3 advertising and public relations campaigns, yes.

4 Q. Were those documents describing successes
15:01 5 in those areas?

6 A. I believe there are references in a
7 number of documents to successes, as a matter of
8 fact. In fact, I know there are. I believe there
9 are also references to failures, so I would have to
15:01 10 say both.

11 Q. Well, can you give me an example of a
12 reference to a failure of a public relations
13 campaign?

14 A. I'm not sure I would want to
15:01 15 characterize, again, a particular one without going
16 back and looking at those exact documents, and I
17 would probably say the same with the successes. They
18 are certainly referenced in there. Without going
19 back and looking at the particular documents, I don't
15:02 20 think I would want to do that.

21 Q. Have you reviewed any documents by
22 members of the tobacco industry which discuss
23 successes or failures in lobbying?

24 A. I'm more certain on the public
1 02 25 relations. Those are clearly -- in terms of

15:02 1 lobbying, I'm not sure to what extent lobbying has
2 been singled out in a lot of cases as separate.
3 There are certainly documents which refer to lobbying
4 efforts, and they refer to, you know, they list names
15:02 5 of people and things for doing lobbying efforts and
6 the lobbying efforts need to be redirected or moved
7 in this direction or that direction. So yes,
8 certainly there are references there to lobbying.

9 Q. Can you recall a reference to success in
15:02 10 lobbying activities?

11 A. Again, I think for that, I would want to
12 look at a specific document.

13 Q. So you can't at this time recall a
14 reference to success in lobbying?

15:03 15 A. Again, trying to identify a specific
16 document and talk about well, this one says this or
17 that one says that, without looking at specific
18 documents, I wouldn't want to be in the position of
19 doing that, no.

15:03 20 Q. Can the goal of a propaganda campaign be
21 to instill doubt?

22 A. I suppose that whoever offers or whoever
23 is going to conduct a campaign is free to conduct --
24 free to set their own goals, so someone could
1. 24 25 certainly set that as a goal, to simply instill

1 04 1 doubt. I suppose that would be possible.

2 Q. Can the goal of a propaganda campaign be
3 to enlarge the mix of information available?

4 A. That would seem very unlikely, unless I
15:04 5 misunderstand what you have in mind.

6 Q. Well, isn't it true that a goal to expand
7 the mix of information available would not fit into
8 your definition of propaganda; isn't that true?

9 A. That seems true. I can't think of how
15:04 10 that would fit in, since propaganda, you know, is not
11 simply -- one doesn't need propaganda to do that.
12 There are many other simple, easy ways to do that.

13 Q. If the goal of a campaign was to mix
14 misinformation in with factual information, then that
15:05 15 still would not fit into your definition of a
16 propaganda campaign; correct?

17 A. I don't think one would normally define a
18 goal as mixing misinformation and good information.
19 There would probably be a goal involved and that
15:05 20 might be a means but I would be very surprised to see
21 that as a goal. It would be a very easy goal to
22 obtain for anyone, any individual or advertisement,
23 or anything has to do is make one statement that's
24 correct and one that isn't, and anybody can do that
1 05 25 at any time. It wouldn't be a goal.

15:06 1 It might be an element of a propaganda
2 campaign, or it might not, depending. But it would
3 surprise me very much to see that as a goal. I don't
4 see how you could argue that could be a goal of a
15:06 5 propaganda campaign.

6 Q. So in your expertise as a propaganda
7 expert, you have -- you can't come up with any
8 example of a campaign with that as its goal?

9 A. I certainly can't think of one, no.

15:06 10 Normally, people engage in a propaganda campaign
11 because they do have a goal, and they do have some
12 degree of control over information sources and
13 information, and they use that in the service of the
14 goal.

15:07 15 Q. Have you seen any statement or
16 publication by a member of the tobacco industry that
17 questions adverse health effects of cigarette
18 smoking?

19 A. Could you repeat the first part of that,
15:07 20 member of what was that?

21 Q. Have you seen any statement or
22 publication by a member of the tobacco industry --

23 A. Which --

24 Q. -- that questions adverse health effects
1. 07 25 from cigarette smoking?

07 1 MR. NUNLEY: You mean whether there are
2 adverse health effects associated with smoking?
3 MR. EVANS: Yes.
4 THE WITNESS: Well, there are
15:07 5 advertisements which say we need to keep an open mind
6 on it. If you regard saying we need to keep an open
7 mind as questioning the existence, I think that's a
8 logical leap. But if you wish to make that logical
9 leap, then you could probably do that. There are
15:08 10 certainly many things that say, you know, there are
11 two sides to the issue, we need to keep an open mind,
12 you've got to -- you've got to consider that there's
13 some people who believe this way and some who believe
14 that way.
15:08 15 I wouldn't regard that kind of thing as
16 directly what you're talking about, without a logical
17 leap.
18 BY MR. EVANS:
19 Q. I'm sorry, in your answer didn't you say
15:08 20 that one could make that logical leap from --
21 A. You could, but you'd be mistaken if you
22 did, in my opinion.
23 Q. So you are not making that leap?
24 A. I would not make that logical leap, no,
1 08 25 no.

1' 78 1 Q. Then I misunderstood. Thank you.

2 Have you seen any statement or
3 publication from a member of the tobacco industry
4 which calls into question statements by the Surgeon
5 General?

6 A. There are certainly statements in
7 internal documents. May I have the first part of
8 that again? The statements that appear where? What
9 kinds of statements?

15:09 10 Q. I'm asking you if, in any of the
11 documents you have reviewed, if you have seen a
12 statement which questions -- calls into question
13 information put out by the Surgeon General.

14 A. Yes.

15:09 15 Q. Can you recall a specific content of that
16 statement?

17 A. Well, as I recall, there was quite a
18 hubbub or to-do around the time of the dissemination
19 of the 1964 Surgeon General's report on smoking and
15:09 20 health. As I recall, there were press conferences,
21 for example, which were scheduled, and I know that
22 there was an attempt made to obtain, you know, copies
23 of this, many people wanted to get copies ahead of
24 time, as is natural in that kind of thing.

1 10 25 And there's a good deal of evidence over

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J 10 1 the meetings and things surrounding that and of
2 holding a press conference perhaps sponsored by TI or
3 by someone else concerned with tobacco, about that
4 particular thing.

15:10 5 Within that context of all of those
6 documents surrounding that hubbub that occurred
7 immediately after that '64 Surgeon General's report,
8 yes, surely there were things -- and again if you ask
9 me what specific document, I would want to see -- but
15:10 10 there are quite a number of documents that relate to
11 what happened on the day of, the day before,
12 immediately surrounding that, which surely contain
13 some of that type of information.

14 Q. Have you seen any statements or documents
15:10 15 by members of the tobacco industry which use the term
16 "preemptive strike" when referring to a press
17 conference by the Surgeon General?

18 A. Again, without looking, I wouldn't be
19 certain. It seems to me that that language is in
15:11 20 there, but I wouldn't want to say so for sure without
21 looking. It sounds like something that's in there.

22 Q. If the Surgeon General were to release a
23 report and the day before, an organization put out
24 information relating to the same subject matter, is
J 11 25 that an example of an attempt to inoculate?

15:11 1 A. It might be. It might also be simply an
2 attempt to persuade on the other side. There's
3 always that distinction between is this particular
4 method being used to try to stave off the effects of
5 message or message campaign, versus they're
6 presenting their side, we're presenting our side.

7 So it could be taken, and you would need
8 to look very specifically at what's going on there,
9 to see does it have the characteristics which would
15:12 10 allow it to be an inoculation attempt; very
11 unlikely. And from what I have read of it and
12 remember of it, I don't think it is or can be.

13 On the other hand, it's very, very -- you
14 know, it's almost certain, very likely to certain, to
15:12 15 be part of a persuasive campaign that's aimed in a
16 different direction than the Surgeon General's
17 report.

18 Now, you might, or I might, or an expert
19 might, look at that information, and after a full
15:12 20 study, come to a different conclusion. I have not
21 specifically looked at all of that information
22 directly in the context of inoculation of facts. But
23 from my general reading of it, that's pretty much my
24 answer. I don't think so.

15:12 25 Q. Do you have an opinion on whether or not

12 1 the tobacco industry has attempted to control adverse
2 health information on cigarette smoking?

3 A. Yes, I do have an opinion on that.

4 Q. And what is that opinion?

15:13 5 A. It has several parts to it. One, there
6 is no way the industry could do that, okay. Two,
7 would the industry have liked to have done that?

8 Well, that would require me to go into the heads of
9 executives, where I can't do that. All I can do is

15:13 10 rely on what's there. Perhaps, but I can't -- you
11 know, I can't speculate in terms of what's in
12 people's minds.

13 But if you look at things, such as the
14 American public or what's available in the public

15:13 15 domain, if you look in terms of scientists, if you
16 look in terms of executives, you find different
17 levels of awareness.

18 And I think I've suddenly been
19 distracted. What's the --

15:14 20 Q. If I may clarify. You have stated
21 earlier today your opinion that the tobacco industry
22 did not -- or if you didn't state it earlier, you
23 just did, that they could not have succeeded in
24 controlling adverse health information. Do you have
14 25 an opinion on whether or not the tobacco industry has

1' 4 1 attempted to control such information?

2 A. Well, the information that is private
3 within the company is certainly their information
4 and --

15:14 5 Q. But sir, have you formed an opinion on
6 whether the tobacco industry has attempted to control
7 such information?

8 A. Well, what I'm trying to do, sir, is be
9 very specific on which information you're talking
15:14 10 about, and that's why I'm mentioning information in
11 the public domain as opposed to information that's
12 private within companies, as opposed to information
13 that comes from scientific studies completely apart
14 from the tobacco industry, as opposed to perhaps a
15:15 15 fourth class of information, which comes from studies
16 sponsored at least in part by money from tobacco
17 companies.

18 Now, again, so I can talk about them as
19 classes rather than to give you an answer overall.
15:15 20 Shall I do that?

21 MR. NUNLEY: Maybe to cut to the heart of
22 this, had you formed an opinion before you came in
23 here today, or are you forming an opinion in response
24 to Mr. Evans's question, that might be the first
1 5 25 foundational question to ask. Maybe the answer -- do

15 1 you want to ask that question first?

2 MR. MIKHAIL: He's asked it.

3 THE WITNESS: Okay. Well, in terms of
4 most classes of information --

15:15 5 MS. TYLER: Is there a question pending?

6 MR. EVANS: My question is still pending
7 and he is breaking down his answer into four
8 components.

9 THE WITNESS: In terms of most of those
15:16 10 classes, the answer would be no. I don't think that
11 there is any evidence whatever that the tobacco
12 industry has tried to go out and, for example, grab
13 information that's in the public and --

14 BY MR. EVANS:

15:16 15 Q. Just --

16 MR. NUNLEY: Wait now. This is twice,
17 Jerry. If you're going to ask open-ended questions,
18 let him start to answer, let him finish. I asked him
19 whether you wanted to know whether he had an opinion
15:16 20 or was forming one in response. Mr. Mikhail said no,
21 he's already asked a question. This is twice you've
22 asked, twice you've interrupted him. Let him
23 finish.

24 BY MR. EVANS:

1 16 25 Q. Be happy to, sir.

15:16 6 1 A. In terms of that open class of
2 information, information that's always been in the
3 public domain, they couldn't if they wanted to. It's
4 not possible, okay. And there's no evidence that
5 they have ever tried to change what's out there, burn
6 libraries, whatever you would have to do. No,
7 clearly not.

8 In terms of information that is
9 available, I'm trying to remember what the classes
15:17 10 are now. We have the public, we've got information
11 that is coming from scientists who are doing
12 independent research which is not in any way funded
13 by the tobacco industry, and in terms of cancer
14 research, that is the great bulk of the research. I
15:17 15 forget the exact percentages, but 80 percent at
16 least, probably well over 90 percent of the research
17 falls into that area.

18 And the tobacco industry is in no
19 position and could make no reasonable attempt to do
15:17 20 that. What one would have to do to suppress that
21 information, I don't know.

22 Now, if we get down to category 3, which
23 is information which is funded by money which
24 originates at least from the tobacco industry,
1. '7 25 although it is funding to independent sources outside

1 17 1 of the industry, that is it's not in-house research,
2 if you get into that, there are allegations that
3 well, you know, maybe somebody's funding is going to
4 get cut off here or maybe I don't like that there,
15:18 5 you see people making allegations of that. To the
6 extent to which those are credible, I don't know.
7 But I know that there have been charges
8 that well, you cut off my research because you didn't
9 like what I was doing. Well, that's a debatable
15:18 10 question. And I think that you might want to
11 investigate that specific question, with Denoble or
12 with anyone else -- or actually with Denoble, let's
13 get to a fourth class of information; that is,
14 in-house kinds of study.
15:18 15 With in-house kinds of studies, that's
16 proprietary information within the tobacco industry.
17 It's not information that somehow counters
18 information that's out in the public domain. It's
19 simply studies that have been done within the various
15:18 20 units of the industry to try to, I would assume,
21 reconfirm things that are found, perhaps do cutting
22 edge new research too. But there's nothing there
23 that couldn't be done and that hasn't been done, as
24 far as any of the documents indicate, completely
1 19 25 separately from there.

1: 19 1 So while that's a very long answer to
2 your question, it seems to me that that's the
3 appropriate answer.

4 Q. I don't have any problem at all with that
15:19 5 answer.

6 A. Okay.

7 MR. EVANS: If you will indulge me in a
8 two-minute break, I will finish in one more minute
9 after that. Thank you.

15:19 10 THE WITNESS: Certainly.

11 VIDEO OPERATOR: We're off the record at
12 3:19.

13 (Recess.)

14 VIDEO OPERATOR: We're back on the record
15:22 15 at 3:21.

16 MR. EVANS: Dr. Steinfatt, I have nothing
17 further. I thank you very much for your time. Your
18 counsel may have some questions.

19 MR. NUNLEY: Just very briefly.

20 EXAMINATION

21 BY MR. NUNLEY:

22 Q. I'm just going to stay where I am, so if
23 you don't mind keep looking at the jury there through
24 the camera. You testified earlier that you have done
1. 22 25 work in preparation for the testimony you're going to

22 1 give in the Oklahoma case; is that correct?

2 A. That's correct.

3 Q. And you've also done work in preparation
4 for the deposition you're giving today; is that
15:22 5 correct? It's Oklahoma-specific; correct?

6 A. Yes, that is correct.

7 Q. I think you, in answer to one of
8 Mr. Evans's questions, you indicated that both you
9 and your research assistant had reviewed certain
15:22 10 documents that had been sent to you; is that correct?

11 A. Oh, no, that -- if I stated that, that's
12 incorrect. In terms of reviewing documents, no, my
13 research assistant looks at anything that's in the
14 public domain. My research assistant never looks at
15:23 15 documents which are sent, never.

16 Q. So to the extent that you have looked at
17 company documents, they were ones that -- to the
18 extent either you or your research assistant have
19 looked at company documents, you've been the one who
15:23 20 have looked at them; is that correct?

21 MR. EVANS: I'll object as leading.

22 THE WITNESS: Yes, but -- yes, accurate,
23 absolutely.

24 BY MR. NUNLEY:

23 25 Q. With respect to Oklahoma, where have

15:23 1 those -- did those documents come to you from a
2 lawyer?

3 A. Those documents came to me from Julia
4 Tyler, yes.

15:23 5 Q. And Ms. Tyler is with which firm?

6 A. With Johnson & Tyler.

7 Q. And have you met with any other lawyers
8 in preparation for your deposition today in the
9 Oklahoma case?

15:23 10 A. Yes, I have.

11 Q. Who else have you met with?

12 A. Chip Nunley.

13 Q. Have you met with any lawyers from Shook,
14 Hardy & Bacon to prepare for your testimony in the
15 Oklahoma case?

16 A. No, I have not.

17 MR. NUNLEY: I don't have any further
18 questions, just state for the record, to the extent
19 there's any confusion earlier on, Dr. Steinfatt is
15:24 20 identified as a witness in Oklahoma for, I guess the
21 way to identify him is those Defendants other than
22 those that are contesting jurisdiction. He's
23 appearing for Philip Morris and other manufacturing
24 affiliates. Okay? Is that all?

1. 24 25 MR. EVANS: That's all.

1--24

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VIDEO OPERATOR: We're off the record at

2

3:24.

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(Whereupon, at 3:24 p.m., the deposition

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was concluded.)

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A. WILLIAM ROBERTS, JR., & ASSOCIATES

1 I HEREBY CERTIFY that I have read this
2 transcript of my deposition and that this transcript
3 accurately states the testimony given by me, with the
4 changes or corrections, if any, as noted.

5

6

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X

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11 Subscribed and sworn to before me this _____ day of
12 _____, 19__.

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Not

18 Public

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20 My commission expires: _____.

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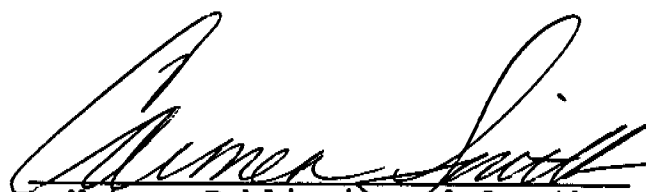
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1	<u>C O N T E N T S</u>	
2		
3	WITNESS	EX
4	Thomas M. Steinfatt	
5	by Mr. Evans	5
6	by Mr. Nunley	18
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12	<u>E X H I B I T S</u>	
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14	DEPOSITION NUMBER	ID
15		
16	Exhibit 1	32
17	Exhibit 2	86
18	Exhibit 3	90
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN BUNCH SMITH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 2003